

FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. January 13, 2009

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on January 6, 2009

AWARDS AND PROCLAMATIONS

- Proclamations:
 - Lois Crane Day
 - Everybody Counts! Point-in-Time Homeless Count Day

I. PUBLIC AGENDA

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Bob Hanson (*PULLED*)
2. Harvey Sorenson/Jon Rolph (*MOVED TO FEBRUARY 3RD*)

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

1. Status Report on the Boat House. (District I)

RECOMMENDED ACTION: Accept this report.

III. NEW COUNCIL BUSINESS

1. Appeal of Decision of the Board of Appeals of Plumbers and Gas Fitters - One-Year Suspension of Journeyman Plumbing Certificate of Kevin Lehane.

RECOMMENDED ACTION: It is recommended that the City Council reverse, affirm (wholly or partly), or modify the decision of the Board of Appeals of Plumbers and Gas Fitters to suspend the journeyman plumbing certificates of Kevin Lehane for one (1) year.

2. National Baseball Congress Lease Payment.

RECOMMENDED ACTION: Take such action as the City Council finds to be in the best interest of the public and authorize the necessary signatures.

3. Redirect Contract for Providing Background Investigations.

RECOMMENDED ACTION: Redirect this contract and authorize the necessary signatures.

4. General Obligation Bond and Note Sale. (*Opening time at 10:30 a.m.*)

RECOMMENDED ACTION: Direct the opening and reading of the bids; award the sale of the Bonds and Temporary Notes; and find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond and Note Ordinances on the date of their introduction, adopt the Bond and Note Ordinances and Resolutions and authorize the publication of the Bond and Note Ordinances.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

IV. NON-CONSENT PLANNING AGENDA

1. ZON2008-00066 – Replace multiple Protective Overlays and a Restrictive Covenant to adjust permitted uses and development standards; generally located between Ridge Road and Summitlawn Drive, south of Maple Street. (District V)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, subject to platting within one year and the provisions of the Protective Overlay, PO #228, withhold publication of the ordinance until the plat is recorded; OR 2) Return the application to the MAPC for reconsideration. (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

V. CONSENT PLANNING AGENDA

1. *SUB 2007-05 -- Plat of Mapleridge Addition located on the southeast corner of Maple and Ridge Road. (District III)

RECOMMENDED ACTION: Approve the documents and plat and authorize the necessary signatures.

2. *VAC2008-34-Request to vacate a portion of a platted drainage easement; generally located midway between Pawnee Avenue and Harry Street, west of West Street. (District IV)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

3. *VAC2008-36 - Request to vacate street right-of-way, dedicated by separate instrument; generally located west of Arkansas, south of 35th Street North. (District VI)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

4. *VAC2008-00037-Request to vacate a platted easement, generally located midway between I-35 and 159th Street East, north of Central Avenue on the northeast side of Belle Terra Circle. (District II)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

5. *A09-01-Request by James K. Snook, of James K. Snook Trust Agreement, to annex lands generally located south of MacArthur Road, between Hoover Road and West Street South. (District IV)

RECOMMENDED ACTION: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Allan Murdock, Housing Member is also seated with the City Council.

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA

1. *2009 Schedule of Fees and Charges and Resolution for the Wichita Airport Authority.

RECOMMENDED ACTION: Adopt the Schedule of Fees and Charges and the Resolution of the Wichita Airport Authority implementing a schedule of fees and charges for passenger airlines, all to be retroactively effective January 1, 2009.

2. *Airline Use Agreements - Supplemental Agreements.

RECOMMENDED ACTION: Approve the Supplemental Agreements; and authorize the necessary signatures.

3. *Southwest Area Site Development - Supplemental Agreement No. 2 - Colonel James Jabara Airport.

RECOMMENDED ACTION: Approve the supplemental agreement and authorize the necessary signatures.

4. *Tenant Facility Improvements - 1761 Airport Road and 2010 Airport Road on Wichita Mid-Continent Airport and 3340 Jabara Road on Colonel James Jabara Airport - Supplemental Agreement No. 1.

RECOMMENDED ACTION: Approve the supplemental agreement and authorize the necessary signatures.

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

1. Approval of travel expenses for Mayor Brewer and Council Members to attend the LKM City Hall Day at the Capitol in Topeka, Kansas on January 28, 2009.

RECOMMENDED ACTION: Approve travel expenditures.

2. Approval of travel expenses for Mayor Brewer and Council Members to attend the NLC Conference in Washington, DC, March 13-18, 2009.

RECOMMENDED ACTION: Approve travel expenditures.

XI. COUNCIL MEMBER APPOINTMENTS

- 1.

RECOMMENDED ACTION: Approve the Appointments

XII. CONSENT AGENDA

1. Report of Board of Bids and Contracts.
 - a. Report of Board of Bids and Contracts dated January 12, 2000. (See Attached)

RECOMMENDED ACTION: Receive and file report; approve Contracts; authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2009</u>	<u>(Consumption off Premises)</u>
Evan Nguyen	Evans Company dba Evans Corner Gas and Grocery	2828 East 21st Street North
Jim Steindler	Gotta Stop	5600 West MacArthur Road
Jay A. Johnson	Johnson's General Stores, Inc. #06	103 South Seneca
Jay A. Johnson	Johnson's General Stores, Inc. #39	5400 North Meridian
Raisa Mirza	Valero	731 North Ridge Road
Hisham Mubaidin	FoodMart Midwest LLC	7101 East Lincoln
Lethanh T Le	Broadway Supermarket	1336 North Broadway

* General/Restaurant 50% or more gross revenue from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates: (See Attached)

RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:

- a. Water Distribution System for Cambria Addition, north of Pawnee, east of 143rd Street East. (District II)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Property Acquisition:

- a. Partial Acquisition of Land at 4540 South Meridian; 47th Street - 31st Street Road Improvement Project. (District IV)

RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

6. Minutes of Advisory Boards/Commissions

Deferred Compensation Board, August 21, 2008
Police and Fire Retirement Board, October 22, 2008
Police and Fire Retirement Board, November 19, 2008
Wichita Employees' Retirement Board, October 15, 2008
Wichita Employees' Retirement Board, November 19, 2008
Joint Investment Committee, October 2, 2008
Joint Investment Committee, November 6, 2008

RECOMMENDED ACTION: Receive and file.

7. Consent to Sale of Project, Cimarron Acquisition, L.P. (District V)

RECOMMENDED ACTION: Approve the Consent of Issuer to the sale of Cimarron Apartments to Cimarron Partners, LLC subject to stated conditions, authorize the execution and delivery of such further documents required to release the property subject to approval by the City Attorney's Office, and authorize the necessary signatures.

8. December 2008 Monthly Report to Council.

RECOMMENDED ACTION: Receive and file.

9. 2009 Self-Insurance Program-Plan Amendment NPAR-6.

RECOMMENDED ACTION: Approve Plan Amendment 2008 NPAR-6 and authorize the appropriate signatures.

10. 2009 Self-Insured Health Program-Stop Loss Insurance Policy.

RECOMMENDED ACTION: Approve the \$400,000 Stop Loss insurance policy and authorize the appropriate signatures.

11. Sewage Treatment Plant II Nutrient Removal - Initiation of Funds.

RECOMMENDED ACTION: Authorize Staff to proceed, approve the initiation of funds, adopt the Resolution, and authorize the necessary signatures.

12. Supplemental agreement with Law/Kingdon, Inc. for professional services related to: Design and construction of the International Marketplace District streetscape improvements; and, Design and construction of the outdoor public market element of the NOMAR Public Market facility on city property along 21st Street North, between Market and Broadway. (District VI)

RECOMMENDED ACTION: Approve the supplemental agreement with Law/Kingdon, Inc. and authorize the appropriate signatures.

13. Second Reading Ordinances: (First Read January 6, 2009)

a. (see attached)

RECOMMENDED ACTION: Adopt the Ordinances.

14. Street Closure: Hoover Road at 25th Street North. (District V)

RECOMMENDED ACTION: Approve the street closure.

Adjournment

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council Members

SUBJECT: Status Report on the Boat House (District I)

INITIATED BY: Department of Public Works

AGENDA: Unfinished Business

Recommendation: Accept this report.

Background: The building currently known as the Boat House was constructed in 1926. It was a very plain 2-story rectangular brick building that was used by various companies as an office/warehouse facility until it was turned into the Senior Services Center in 1983. The building was in an Urban Renewal area, and the City acquired it in 1991.

The Arkansas River Foundation was a group of private individuals who aspired to bring more people to downtown Wichita by constructing a facility on the Arkansas River that would be a focal point of activity on and along the river. In 1992, they approached the City about acquiring the Senior Services building and remodeling it into a boat house type facility. Their concept was to keep the original 1926 rectangular brick structure, but to revise the interior, and to add extensive balconies and other features to the plain exterior that were reminiscent of the old Riverside Boathouse that was demolished in the 1960's.

On January 11, 1993, Bill Koch offered a \$500,000 challenge grant to help pay for the cost of converting the old Senior Services building into a boathouse if the foundation would raise the rest from private donors. Later, his offer was revised and he made an \$800,000 loan to the foundation. He also offered to give the Jayhawk, which was a boat from his America's Cup team, for display on the condition that it could not be sold, transferred or removed from the property.

On January 26, 1993, the City Council approved the Resolution affirming the Ark River Foundation's concept. They also approved giving the Foundation a 20-year lease for the facility at \$1/year.

The former Senior Services building was remodeled into its current form in 1993. The Foundations' original intent, which was to build a boat storage and launching facility near the water to make this a true boat house, was abandoned. Rainbow construction was the General Contractor, and the total cost was about \$1,000,000.

The Arkansas River Foundation officially opened the Boathouse to the public in April, 1994. Just three years later, the Foundation approached the City asking it to take over the building.

On September 9, 1997, the City Council approved a proposal from the Arkansas River Foundation to terminate their existing lease agreement and to arrange for the transfer of the facility and its operations to

the City. Part of the Agreement was that Bill Koch would forgive his \$800,000 loan and that he would make a \$200,000 cash donation to be used for the continued support of Boathouse operations.

City staff was authorized to work on a transition plan, which was presented on December 19, 1997. They estimated that \$200,000 of repairs and other maintenance would need to be done immediately.

On December 23, 1997, City Council gave final approval to the termination of the lease agreement with the Arkansas River Foundation. In addition, they accepted the Jayhawk, which Mr. Koch had donated to the Foundation. In doing so, the Council accepted the terms and conditions regarding the Jayhawk as originally imposed on the Foundation by Mr. Koch.

On February 27, 1998, the Arkansas River Foundation formally surrendered its lease for the Wichita Boathouse to the City. Later, the Foundation was dissolved.

The City operated the Boathouse as a Visitor's Center and Reception Facility for 7 years from 1998 until it was closed in 2005 due to street construction related to the WaterWalk development. This required the annex to the east and a separate building to the south to be demolished, and the existing utilities to the building were removed as part of that work. City staff then mothballed the Boathouse following the guidelines for Mothballing Historic Buildings as published by the National Park Service. This was done even though the Boathouse is not considered an historic building due to the extensive changes that have been made to it over the years.

In November, 2005, the City issued a Request for Proposals to interested parties for utilizing the Boathouse, but the proposals that were received were determined to be unsatisfactory. City Council then tabled further consideration until some future date.

In 2008, the City contracted with a local architectural firm to analyze the condition of the Boathouse and prepare an estimate of the cost to return the building to its former use as a meeting and reception facility. Their report gave an estimated cost of \$1.4 million. However later reviews of their report by building contractors have indicated that a cost of \$1 million to \$1.2 million may be adequate. The cost would probably be different if the building were to be converted to a different use.

Analysis: The City has recently received both unsolicited expressions of interest and proposals for using the Boathouse from various parties. One of these is the proposal from Mr. Koch that has been reported in the media.

The Law Department has determined that since the Boathouse is located within an Urban Renewal area, the City is legally required to solicit competitive proposals before entering into any agreements with others regarding use of the Boathouse. Therefore, a Request for Proposals (RFP) will be prepared with the appropriate attachments and disclosure information over the next two weeks that will enable interested parties to prepare meaningful proposals.

The target date for publishing the RFP on the City's website and for sending it to parties who have expressed an interest is Wednesday, January 28th. It is our intent that the RFP will allow 4-weeks for parties to prepare proposals and submit them to the City, with a deadline of Thursday, February 26th.

The RFP will be written such that all proposals are welcome, whether they are based on reusing the existing building, extensively remodeling the existing building, or tearing down the existing building and constructing a new building in its place. There are two basic requirements for all proposals. One is that

the City will only lease the land, regardless of which proposal is selected, but in no case will the land be sold. The other is that the sailboat, the Jayhawk, which was given to the City, cannot be sold or removed from the property without the permission of Mr. Koch, although it can be moved to another location on the Boathouse property if desired.

We anticipate that people preparing proposals will have questions. Therefore, a Pre-proposal Meeting will be scheduled sometime during the week of February 9 – 13. Everyone working on a proposal will be invited, and this will be an opportunity for them to get their questions answered. Any new information coming out of the Pre-proposal Meeting that has not already been presented in the RFP will be issued as an addendum and published on the City's website for the benefit of those who were not at the meeting. The pre-proposal meeting will finish with a tour of the Boathouse.

After the proposals have been received on February 26th, they will be distributed to members of the City Council for review and consideration.

Financial Considerations: The City has about \$65,000 that has been received from an insurance company for repair of the Boathouse roof, and that money will be contributed to help offset the cost of restoring the Boathouse for proposals that chose that option. The City also has the \$200,000 that was given by Mr. Koch in 1997 to help with support of Boathouse operations. Those funds have been held in reserve for restoration of the Jayhawk and will be used by the City for that purpose.

Goal Impact: Determining the use of the Boathouse site affects Economic Vitality through economic development, the Quality of Life for the citizens of Wichita, and the City's Core Area through continued revitalization.

Legal Considerations: The Law Department has determined that soliciting competitive proposals for use of the Boathouse is required because of its location within an Urban Renewal area. The Law Department will review the RFP as to form before it is published.

Recommendation/Action: Accept this report.

City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council

SUBJECT: Appeal of Decision of the Board of Appeals of Plumbers and Gas Fitters -
One-Year Suspension of Journeyman Plumbing Certificate of Kevin Lehane

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendation: Based on evidence and testimony presented, reverse, affirm (wholly or partly) or modify the decision of the Board of Appeals of Plumbers and Gas Fitters to suspend the City of Wichita journeyman plumbing certificate of Kevin Lehane for one (1) year.

Background: On December 3, 2008, the Board of Appeals of Plumbers and Gas Fitters (Board) conducted a hearing to consider probation, suspension or revocation of Mr. Kevin Lehane's journeyman plumbing and drain layer (sewer) certificates. Office of Central Inspection (OCI) staff requested and scheduled the Board hearing because Mr. Lehane has recently been advertising himself as a *master plumber* for American Sewer Service & Plumbing, Inc., an unlicensed sewer and plumbing company. This advertising is in violation not only of the Plumbing and Gas Fitting Code with respect to truth in advertising requirements (Title 21.04.043), but is also in violation of the Board's order of June 4, 2008. On June 4, 2008, the Board revoked Mr. Lehane's master plumbing and master drain layer certificates for multiple and repeated violations of the Plumbing and Gas Fitting Code. The Board's June 4, 2008 action was subsequently upheld by the City Council on appeal (during the August 12, 2008 City Council meeting).

Per City Code, a master certificate is the highest level of certification that can be attained in the plumbing and/or drain layer trades. A master certificate requires at minimum of two years practical experience in the trade as an apprentice, a minimum of two years practical experience in the trade as a certified (tested) journeyman, and a passing score on a nationally recognized master level trade examination. Master plumber or drain layer certificate holders are allowed to perform plumbing and/or drain laying work, supervise certified journeymen and apprentices, and serve as the required "qualified" individual for a Wichita-licensed plumbing or drain laying company. Journeyman plumber or drain layer certificate holders are allowed to perform plumbing and/or drain laying work, and to supervise apprentices, but are not allowed to act as the "qualified" individual for a Wichita-licensed plumbing or drain laying company.

Analysis: The Board of Appeals of Plumbers and Gas Fitters is authorized to conduct hearings to consider probation, suspension or revocation of master or journeyman plumbing and/or drain layer certificates. Mr. Kevin Lehane was brought before the Board on December 3, 2008 pursuant to Section 21.04.040 (m) of the City Code, which states:

The Board of Appeals of Plumbers and Gas Fitters is authorized to cancel and recall the certificate of any master plumber, gas fitter, drain layer . . . for any of the following reasons:

- (3) The committing of any act in violation of any provisions of this Code or the failure or refusal to comply with any lawful order of the administrative authority . . .

During the December 3, 2008 hearing, the Board reviewed a memorandum from the Department of Law (Sharon Dickgrafe) outlining the current complaint against Mr. Lehané, and recommending that Mr. Lehané's journeyman plumbing certificate be revoked. The Board further reviewed a mailing recently received by a Wichita resident, which advertised drain cleaning services for American Sewer Service under license number 2021 (the license number for RWL Plumbing Services). The recent mailing also included a business card for American Sewer Service & Plumbing, Inc., which advertises Mr. Kevin Lehané as a "*Master Plumber*", and also advertises two (2) license numbers that have been expired/invalid since December 31, 2005. Copies of Ms. Dickgrafe's memorandum to the Board and the recently mailed advertising were provided to Mr. Lehané with the December 3, 2008 hearing notice (sent to Mr. Lehané on November 24, 2008).

During its December 3, 2008 meeting, the Board heard testimony from OCI staff and Mr. Lehané; Assistant City Attorney was in attendance to answer any questions. After significant discussion, the Board voted to suspend the journeyman plumbing certificate of Kevin Lehané for one (1) year for failure to comply with the previous order of the Board and Superintendent of Central Inspection, which revoked the master plumbing certificate of Kevin Lehané.

Goal Impact: On January 24, 2006, the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. The Board of Appeals of Plumbers and Gas Fitters' licensing and certificate hearing and review authority supports the "Provide a Safe and Secure Community" goal by helping to ensure appropriate training and certification of plumbers and drain layers, proper job site supervision, and accountability of Wichita-licensed plumbing companies to the public and City authorities.

Legal Considerations: Pursuant to Title 21, Chapter 21.04.040(m) of the Code of the City of Wichita, the Board of Appeals of Plumbers and Gas Fitters is authorized to cancel and recall the certificate of any master or journeyman plumber or drain layer. Mr. Kevin Lehané was properly notified of the December 3, 2008 Board hearing to consider possible action against his journeyman plumber and drain layer certificates.

Recommendations/Actions: It is recommended that the City Council reverse, affirm (wholly or partly), or modify the decision of the Board of Appeals of Plumbers and Gas Fitters to suspend the journeyman plumbing certificates of Kevin Lehané for one (1) year.

Attachments: (1) City Council appeal request from Kevin Lehané; (2) 12/19/08 Notice of 1/6/09 City Council appeal Hearing; (3) 12/4/08 letter from Kurt A. Schroeder to Kevin Lehané outlining the Board of Appeals of Plumbers and Gas Fitters Kevin Lehané journeyman plumbing certificate one-year suspension; (4) 11/24/08 Notice of 12/3/08 Board of Plumbers and Gas Fitters Certificate Hearing (including copies of advertising mailed to residents by Mr. Lehané, Law Department 11/24/08 memorandum to Board, and copy of 8/12/08 letter to Mr. Lehané regarding City Council decision to uphold Board's 6/4/08 master certificate revocation).

RECEIVED

DEC 11 '08

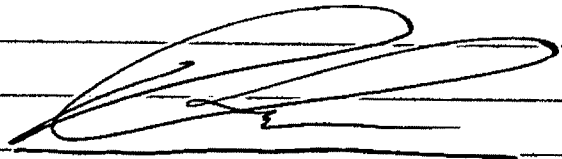
DEC 10/08

KEVIN LEHANE

CITY CLERK OFFICE

720 QUENTIN
WICHITA KS 67218

I KEVIN LEHANE REQUEST A
APPEAL OF DEC 3/08 PLUMBING BOARD'S
DECISION TO SUSPEND MY JOURNEYMAN
PLUMBER CERTIFICATE



KEVIN LEHANE



December 19, 2008

Sent Via Regular and Certified Mail

Mr. Kevin Lehane
720 S. Quentin
Wichita, Kansas 67218

Mr. Kevin Lehane
723 N. Porter
Wichita, Kansas 67203

**RE: Notice of January 6, 2009 Wichita City Council Appeal Hearing
Appeal of the Board of Appeals of Plumbers & Gas Fitters' Decision to Suspend the
Journeyman Plumber Certificate of Kevin Lehane for One Year**


Dear Mr. Lehane:

This is in response to your recent letter (received in the City Clerk's Office on December 11, 2008), which appeals the Board of Appeal of Plumbing and Gas Fitters (Board) December 3, 2008 decision to suspend your City of Wichita journeyman plumber certificate for one year. The City Council will hear this appeal during its regular meeting on January 6, 2009. The January 6, 2009 City Council meeting is scheduled to begin at 9:00 a.m., and will be conducted in the City Council Chambers on the first floor of City Hall, 455 N. Main St., Wichita, KS, 67202. The final agenda will be available to the public on Friday, January 2, 2008. I will send you a copy of the information provided to the City Council the week prior to the January 6, 2009 City Council meeting.

Until your appeal is heard by the City Council on January 6, 2009, the Board's December 3, 2008 action will be held in abeyance; you will retain your journeyman plumbing certificate in the interim. However, to perform plumbing or drain laying work in Wichita, you must be employed by a company with a current and valid plumbing and/or drain laying license (with a valid, qualified master plumber and/or master drain layer).

Please don't hesitate to contact me at 268-4460 if you have any questions.

Sincerely,


Kurt A. Schroeder
Superintendent of Central Inspection

CC: Sharon Dickgrafe
David Laws
Kim Mudd

Attachment: Appeal Request from Kevin Lehane
Office of Central Inspection

City Hall • 7th Floor • 455 N. Main • Wichita, Kansas 67202-1600

T 316.268.4460 • F 316.268.4663



December 4, 2008

Sent Via Regular and Certified Mail

Mr. Kevin Lehane
720 S. Quentin
Wichita, Kansas 67218

Mr. Kevin Lehane
723 N. Porter
Wichita, Kansas 67203

**Re: Board of Appeals of Plumbers & Gas Fitters Certificate Hearing Action
December 3, 2008**

Dear Mr. Lehane:

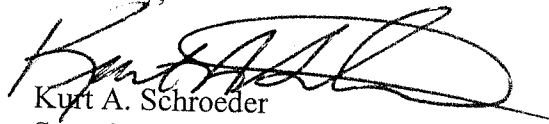
This is written to confirm the December 3, 2008 action of the Wichita Board of Appeals of Plumbers and Gas Fitters (Board) in regard to your Wichita journeyman plumber certificate.

After reviewing evidence, and hearing testimony from OCI staff, City Law Department staff and you, the Board suspended your City of Wichita master plumber certificate for one (1) year. The Board's action takes effect immediately; the suspension will therefore run until December 3, 2009. Your City of Wichita journeyman drain layer certificate is retained and is still in effect. The suspension of your journeyman plumber certificate shall not preclude the Board from considering further action against your Wichita journeyman plumber certificate and/or journeyman drain layer certificate if you continue to violate City codes and/or regulations relating to plumbing, drain laying and/or truth in advertising.

Per Section 2.12.020(9) of the Code of the City of Wichita, you have 10 days from the date of this letter to request an appeal of the Board's decision by filing such appeal, in writing, to the Wichita City Clerk's Office, located in City Hall, 455 N. Main Street, Wichita, Kansas 67202.

Please contact me at 268-4460 if you have any questions regarding this matter.

Sincerely,


Kurt A. Schroeder
Superintendent of Central Inspection

CC: Sharon Dickgrafe
David Laws
Kim Mudd
Scott Moore

Attachment: Revised Journeyman Certificates
Office of Central Inspection

City Hall • 7th Floor • 455 N. Main • Wichita, Kansas 67202-1600

T 316.268.4460 • F 316.268.4663

November 24, 2008



Sent Certified and Regular Mail

Mr. Kevin Lehane
720 S. Quentin
Wichita, Kansas 67218

Mr. Kevin Lehane
723 N. Porter
Wichita, Kansas 67203

Mr. Kevin Lehane
1802 W. McCormick
Wichita, Kansas 67213

**Re: December 3, 2008 Board of Appeals of Plumbers & Gas Fitters Certificate Hearing -
Hearing to Consider Suspension or Revocation of City of Wichita Journeyman Plumber
and Journeyman Drain Layer Certificates for Kevin B. Lehane**

Dear Mr. Lehane:

This is to inform you of a December 3, 2008 hearing before the Board of Appeals of Plumbers & Gas Fitters (Board) regarding your City of Wichita journeyman plumber and master drain layer certificates. The hearing will be conducted by the Board at its meeting on December 3, 2008, beginning at 9:00 a.m., in the Office of Central Inspection Conference Room on the 7th floor of City Hall, 455 N. Main Street. The Board will review evidence indicating that you have very recently been advertising yourself as a "Master Plumber" for American Sewer Service & Plumbing, Inc., even though you only hold a journeyman plumber certificate. You have also recently been advertising American Sewer Service & Plumbing, Inc. under license numbers 6337 and 6341, both of which are associated with City of Wichita licenses that have been expired since December 31, 2005 (see attached copy of recent advertising material sent to a Wichita household on November 13, 2008).

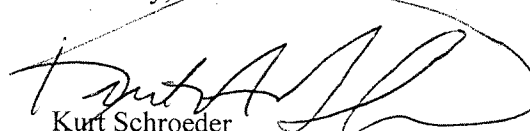
As you know, the Board revoked both your master plumber and master drain layer certificates at their June 4, 2008 Board meeting. On August 12, 2008, the Wichita City Council upheld the June 4, 2008 decision of the Board (see attached copy of the August 12, 2008 letter, which confirmed the City Council's action).

Based on evidence and testimony presented at the December 3rd hearing, the Board may take action to place your City of Wichita journeyman certificate/s in probationary status, or to suspend or revoke your City of Wichita journeyman certificate/s.

A copy of a memorandum to the Board, which outlines the issues to be reviewed by the Board during the hearing, is also attached.

Please don't hesitate to contact me at 268-4460 if you have questions regarding this matter.

Sincerely,


Kurt Schroeder
Superintendent of Central Inspection

CC: Sharon Dickgrafe
David Laws
Kim Mudd

Office of Central Inspection

Attachments

City Hall • 7th Floor • 455 N. Main • Wichita, Kansas 67202-1600

T 316.268.4460 • **F** 316.268.4663

Sewer Service

Box 1237

Wichita, KS 67201

260-2800

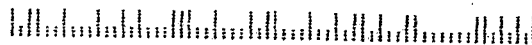
WICHITA KS 670

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LANDLORD/CURRENT RESIDENT
801 S LEXINGTON RD
WICHITA KS 67218

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**AMERICAN
SEWER SERVICE**

& PLUMBING INC.

260.2800

**Kevin Lehane
Master Plumber**

License #6337/6341

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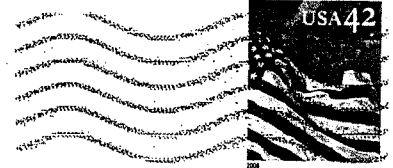
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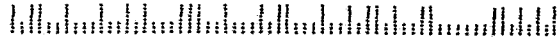
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NDLORD/CURRENT RESIDENT
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WICHITA KS 67218

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DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Board of Plumbers and Gas Fitters
FROM: Sharon L. Dickgrafe, Assistant City Attorney
SUBJECT: Kevin Lehane
DATE: November 24, 2008

At the December 3, 2008 Board of Appeals of Plumbers and Gas Fitters meeting, pursuant to Section 21.04.040^(m) of the Code of the City of Wichita, staff is bringing Mr. Kevin Lehane before the Board due to his failure to comply with the board's order of June 4, 2008 revoking his master's license. The board's order was affirmed by the City Council on August 12, 2008.

Section 21.04.040^(m) provides:

The Board of Appeals of Plumbers and Gas Fitters is authorized to cancel and recall the certificate of any master plumber, gas fitter, drain layer . . . for any of the following reasons:

(3) The committing of any act in violation of any provisions of this Code or the failure or refusal to comply with any lawful order of the administrative authority . . .

Summary of Complaints

On November 13, 2008, American Sewer Service & Plumbing Inc. mailed to households in Wichita information which indicated that Mr. Lehane was the master plumber for the business. This is contrary to the board's order of June 4, 2008. In addition, American Sewer Service & Plumbing is not a currently licensed plumbing business with the City of Wichita.

Recommendation

Due to Mr. Lehane's refusal to comply with the plumbing board's previous order, Central Inspection staff is recommending that Mr. Lehane's journeyman's certificate be revoked per Section 21.04.040^(m) of the Code of the City of Wichita.

A handwritten signature in black ink, appearing to read 'Sharon L. Dickgrafe'.

Sharon L. Dickgrafe
Assistant City Attorney



August 12, 2008

Sent Via Regular and Certified Mail

Mr. Boyd W. Howard
Attorney at Law
727 N. Waco, Suite 165
Wichita, Kansas 67203-3987

Mr. Kevin Lehane
1802 W. McCormick
Wichita, Kansas 67213

**Re: June 4, 2008 Board of Appeals of Plumbers & Gas Fitters Certificate Hearing
Review of Criminal Convictions of Kevin Lehane**

Dear Mr. Howard and Mr. Lehane:

This is written to confirm the action taken by the Wichita City Council on August 12, 2008 in regard to your appeal of the June 4, 2008 Board of Appeals of Plumbers and Gas Fitters revocation of Kevin Lehane's master plumber and master drain layer certificates.

After reviewing the evidence and hearing testimony from you and OCI, the Council voted to affirm the June 4, 2008 action of the Board of Appeals of Plumbers and Gas Fitters. The master plumber and master drain layer certificates for Kevin Lehane are revoked; however, the Board and Council action allows Mr. Lehane to continue to work in Wichita as a journeyman plumber and/or drain layer (with Wichita journeyman plumber and drain layer certificates).

Please contact me at 268-4460 if you have any questions regarding this matter.

Sincerely,

Kurt A. Schroeder
Superintendent of Central
Inspection

CC: Boyd. W. Howard, Attorney at Law
Sharon Dickgrafe
David Laws
Scott Moore

Office of Central Inspection

City Hall • 7th Floor • 455 N. Main • Wichita, Kansas 67202-1600

T 316.268.4460 • F 316.268.4663

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council Members

SUBJECT: National Baseball Congress Lease Payment (All Districts).

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Take such action as the City Council finds to be in the best interest of the public.

Background: On March 18, 2008, the City Council approved a lease agreement with WB, LLC for Lawrence-Dumont Stadium and the National Baseball Congress (NBC) World Series. Under the terms of the lease agreement, WB LLC is to make an annual lease payment for the NBC of \$27,500.

In 2007, the City Council approved the purchase of the NBC from the Rich family. The NBC has always been held in Wichita and the purchase was made to ensure that the tournament's world series would continue to be played here.

Analysis: WB, LLC is requesting that the City forgive the first year LBC lease agreement. WB, LLC sustained significant financial losses during their inaugural season. About half of the net loss is due to onetime start up costs. An additional line of credit has been secured by the ownership group to pay all expenses from this year. WB, LLC has developed a budget and revised business strategy that is intended to make it a profitable operation for the 2009 season that includes the operation of the 75th anniversary world series of the NBC and the Wichita Wingnuts of the American Association .

The Council has three options:

1. Require WB, LLC to make the first year lease payment in the amount of \$27,500,
2. Forgive the first years lease payment in the amount of \$27, 500, or
3. Amend the Lease Agreement to spread the first year lease payment over the remaining term of the agreement.

Financial Considerations: WB, LLC is requesting that the City forgive its first years lease payment for the NBC of \$27,500. If the City is unwilling to forgive the payment, WB, LLC requests that the first year payment be prorated over the remaining fourteen years of the lease agreement. This approach would increase the fourteen remaining lease payments from \$27,500 per year to \$29,465 per year.

Goal Impact: Continuing the presence of professional baseball and the National Baseball Congress World Series at Lawrence-Dumont Stadium will help the City ensure that the goal "Citizens are satisfied with the quality of life" is realized and supports the goal of "Continued revitalization of the core area".

Legal Considerations: If the City Council elects to modify the terms of the lease agreement, an amendment to the lease agreement (modifying the lease payment provision only) will be prepared and presented for signature by the Mayor to implement the decision.

Recommendations/Actions: It is recommended that the City Council take such action as the City Council finds to be in the best interest of the public and authorize any necessary signatures.

Attachments: Forgiveness of lease letter.



**300 South Sycamore
Wichita, KS 67213**

**Phone: (316) 264-4625
Fax: (316) 264-3037**

January 8, 2009

Mr. Joseph Pajor
Public Works Department
City of Wichita
455 North Main
Wichita, KS 67202

Dear Joe,

I want to thank you for your efforts during the 2008 Wichita Wingnuts inaugural season. The City of Wichita brought change and support to the team and stadium that helped build a foundation for many more years of Wingnuts & NBC baseball to come.

Unfortunately, due to some unforeseen start-up costs and Mother Nature not being cooperative, the Wichita Wingnuts and the National Baseball Congress did not succeed financially, losing a combined total of roughly \$488,000. Moving forward, we have a plan of attack in place to maximize revenue and minimize expenses, shaving nearly \$600,000 off of the budget from 2008. Some of this includes \$37,000 from the Stadium Operations budget that is part of our overall lease agreement. Furthermore, we do not have to worry about many of the expenses in 2009 that we absorbed in 2008 because those projects for the new team are already in place.

Recently, our owner and local investors secured a line of credit by all parties, personally guaranteeing an amount in excess of \$200,000 to take care of invoices that needed to be paid, as well as to help us through the off-season. Still, we need your help. We are asking the City of Wichita to forgive the \$27,500 that is part of the lease agreement between our parties for organizing and operating the National Baseball Congress World Series. I know this is a monumental task to ask of you in our first year as an organization, but with your help we can move forward to achieving our goals for next year and in the future.

With Horn Chen as the principal owner of the Wingnuts - and sole owner of the Wichita Thunder for the past 17 years - along with the local ownership group made up of businessmen born and bred in Wichita, there is an unwavering commitment to make the Wingnuts and National Baseball Congress thrive in the community. Combined with the personal guarantee of all parties involved, we assure you that the future of the Wingnuts in Wichita is bright. With your help and a solid plan in place, we can make this happen together.

During my 10 years of service in professional baseball, I have never seen the support and commitment anywhere else that the City of Wichita provides for our organization, and I want to thank you for that. I look forward to discussing these items with you and moving forward with baseball in this great City. If you have any questions, please ask.

Very Sincerely,

Josh Robertson
General Manager
Wichita Wingnuts
National Baseball Congress

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council Members

SUBJECT: Redirect Contract for Providing Background Investigations

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Redirect Background Investigations Contract

Background: The City of Wichita uses the services of a private contractor for background investigations of applicants and employees. The original contract with Daniel D. Stevens, Inc. (DDS) was cancelled on January 9, 2009 due to slow turn-around time, invoicing issues and lack of communication. Staff is requesting to redirect the contract to American Databank, which was the previous contractor for this contract. American Databank was ranked by the selection committee as the number two proposal response.

Analysis: The investigations will include nation-wide criminal and driving records, sex offender registries, and in some cases, education, professional certifications, and credit checks. Under the contract, most investigations will be completed with 24 to 72 hours.

Financial Considerations: There is sufficient budget in 2009.

Goal Impact: Internal Perspectives. Accurate, timely, and affordable background investigations increase productivity by streamlining the hiring process.

Legal Considerations: The contract has been approved as to form by the Law Department. The contract will be for one year with annual renewable options for one (1) year.

Recommendations/Actions: It is recommended that the City Council redirect this contract and authorize the necessary signatures.

Attachments:

1. Redirect contract for Background Investigations

CONTRACT FOR PROVIDING BACKGROUND INVESTIGATIONS

BLANKET PURCHASE ORDER NUMBER BP800144

THIS CONTRACT entered into this 13th day of January, 2009 by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **AMERICAN DATABANK**, whose principal office is at 910 Sixteenth Street, 5th Floor, Denver, Colorado 80202, Telephone Number (303) 573-1130, hereinafter called "**VENDOR**".

WITNESSETH:

WHEREAS, the **CITY** has solicited bids for **Background Investigations** (Formal Proposal – FP800008) Commodity Code Number 96130]; and

WHEREAS, VENDOR has submitted the bid most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services. **VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number- FP800008 [Commodity Code Number 96130] which is incorporated herein by this reference the same as if it were fully set forth. The bid package, including all specifications, plans and addenda, provided by the City of Wichita as part of the bid letting process for Formal Proposal Number- FP800008 shall be considered a part of this contract and is incorporated by reference herein.

2. Compensation. **CITY** agrees to pay to **VENDOR** for **Background Investigations** for the City of Wichita, Formal Proposal – FP800008 [Commodity Code Number 96130], for the Various Departments, Boards and Agencies as shown below as compensations as per the bid, plans, specifications, addenda and **VENDOR's** bid of January 29, 2008 and as approved by the City Council on January 13, 2009.

Background investigations as per specifications.

Verification of name and Social Security number: \$2.50 per each

Sedgwick County Criminal Felony & Misdemeanor searches (10 year report): \$5.00 per each

Criminal Felony & Misdemeanor Searches for other Kansas counties (Average price for counties): \$7.00 per each

Kansas Statewide Criminal Search: \$18.00 per each

Federal District Court Criminal Search cost per District Court: \$8.00 per each
Kansas Driving Records - Motor Vehicle Records: \$8.80 per each
Other State Driving Records - Motor Vehicle Records (Average price for state): \$10.00
Sex Offender Registry: \$5.00 per each
Education Verification: \$7.95 per each
Professional Certifications and Licenses: \$7.95 per each
Credit Checks: \$7.00 per each

3. Term. The term of this contract shall be from **January 1, 2009, through December 31, 2009**, with options to renew the contract under the same terms and conditions for one (1) additional one (1) year term by mutual agreement of both parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR**.

4. Indemnification and Insurance.

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

5. Independent Vendor. The relationship of the **VENDOR** to the **CITY** will be that of an independent Vendor. No employee or agent of the **VENDOR** shall be considered an employee of the **CITY**.

6. Compliance with Laws. **VENDOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. No Assignment. The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

8. Non-Discrimination. **VENDOR** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. No Arbitration. The Vendor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or bid documents is deemed void.

11. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

12. Representative's Authority to Contract. By signing this contract, the representative of the Vendor or Vendor represents the he or she is duly authorized by the Vendor or Vendor to execute this contract, and that the Vendor or Vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

CITY OF WICHITA, KANSAS

Janis Edwards
Deputy City Clerk

Melinda Walker
Purchasing Manager

APPROVED AS TO FORM:

AMERICAN DATABANK

Gary E. Rebenstorf
Director of Law

Signature

Print Name

Title (President or Corporate Officer)

Exhibit A

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the Vendor or subVendor, Vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the Vendor, subVendor, Vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The Vendor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the Vendor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the Vendor fails to comply with the manner in which the Vendor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the Vendor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the Vendor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the Vendor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The Vendor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subVendor or Vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The Vendor, supplier, Vendor or subVendor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Vendor, supplier, Vendor or subVendor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The Vendor, supplier, Vendor or subVendor will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, supplier, Vendor or subVendor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Vendor, supplier, Vendor or subVendor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The Vendor, supplier, Vendor or subVendor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the Vendor, supplier, Vendor, or subVendor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Vendor, supplier, Vendor or subVendor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The Vendor, supplier, Vendor or subVendor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subVendor, subVendor or subsupplier.
5. If the Vendor fails to comply with the manner in which the Vendor reports to the Department of Finance as stated above, the Vendor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those Vendors, subVendors, Vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those Vendors, suppliers, Vendors or subVendors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such Vendor, subVendor, Vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, January 13, 2009, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 787, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$33,310,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 787 Bonds occur on the same day bids are received and to enable the City to deliver the Series 787 Bonds authorized by said Ordinance on February 19, 2009.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 13, 2009.

Carl Brewer, Mayor

Karen Sublett, City Clerk

RESOLUTION NO. 09-016

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 13, 2009

AUTHORIZING THE ISSUANCE OF

\$37,375,000

GENERAL OBLIGATION RENEWAL

TEMPORARY NOTES

SERIES 226

DATED FEBRUARY 19, 2009

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RESOLUTION NO. 09-016

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 226, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$37,375,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Note Ordinance (as herein defined), has authorized the issuance of the Notes in the aggregate principal amount of \$37,375,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements as listed on **Schedule I** and any Substitute Improvements as defined herein are collectively referred to as the “Original Improvements”) and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 224, dated August 19, 2008 (the “Original Notes”), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying a portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156 of the City, K.S.A. 10-101 *et seq.*, K.S.A. 10-123, K.S.A. 12-6a01 *et seq.*, K.S.A. 12-685 *et seq.*, and K.S.A. 13-1024c, all as amended and supplemented, under the authority of which ordinances and statutes the Original Improvements were authorized, the Original Notes were issued and the Notes are issued.

“Authentication Date” shall mean the date on which a Note is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Note.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

- (A) For all purposes, including as defeasance investments in refunding escrow accounts:
 - (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or
 - (2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and
- (B) For all purposes other than defeasance investments in refunding escrow accounts:
 - (1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:
 - Export - Import Bank
 - Farmers Home Administration
 - General Services Administration
 - U.S. Maritime Administration
 - Small Business Administration

- Government National Mortgage Association (GNMA)
 - U.S. Department of Housing & Urban Development (PHA's)
 - Federal Housing Administration;
- (2) Bonds, notes or other evidences of indebtedness rated "AA" by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and "Aa2" by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;
 - (3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;
 - (4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;
 - (5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's or S&P;
 - (6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and

- (7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.
- (C) The value of the above investments shall be determined as of the end of each month. (See the definition of “Value” herein.)

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Notes or investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Original Improvements.

“Date of Issuance” shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Notes, which is February 19, 2009.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Notes for a single Bond Year, as described in the Code.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the State Treasurer of Kansas, and its successors and assigns.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Costs” shall mean the amount of capital expenditures for an Original Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Notes, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds unless such amounts are entitled to be reimbursed under State and Federal law.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Date” shall be November 19, 2009.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

“Maturity Date” means November 19, 2009.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Note Insurer insuring the payment when due of the principal of and interest on the Notes as described on **Exhibit A** to this Resolution.

“Note Insurer” mean any issuer of a Municipal Bond Insurance Policy described on **Exhibit A** to this Resolution.

“Note Ordinance” means the ordinance of the City authorizing the issuance of the Notes as further described on **Exhibit A** to this Resolution.

“Note Registrar” shall mean the City, or such other entity maintaining Registration Books on behalf of the City as set forth in **Section 2.03** hereof, and its successors and assigns.

“Noteowner(s)” shall mean the Owner(s) of the Notes.

“Notes” shall mean the \$37,375,000 original principal amount of General Obligation Renewal Temporary Notes, Series 226, dated February 19, 2009, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

“Original Notes” means the notes previously issued by the City described in the preamble to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Notes to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Notes described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Paying Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Paying Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Note, the person or entity in whose name the Note is registered as shown on the Registration Books maintained on behalf of the City.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the City, or such other entity acting on behalf of the City as Paying Agent for the Notes as set forth in **Section 2.03** hereof, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Capital Project Fund pursuant to **Article IV** hereof, which is created and shall

be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

“Principal Payment Date” shall mean the Maturity Date.

“Purchase Price” means the original purchase price of the Notes described on **Exhibit A** to this Resolution.

“Record Date” shall mean fifteen days prior to the Maturity Date.

“Redemption Fund” shall mean the Series 224 Principal and Interest Account previously created within the City’s Capital Project Fund for the purpose of receiving and disbursing funds for the payment of the Original Notes.

“Registration Books” shall mean the books maintained on behalf of the City by the Note Registrar for the registration and transfer from time to time of the ownership of the Notes.

“Resolution” or “Note Resolution” shall mean this Resolution adopted by the Governing Body of the City on January 13, 2009, prescribing the terms and details of the Notes.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.06** of this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and banker’s acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 Authorization of and Security for Notes. Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the

necessary funds to provide interim financing for a portion of the Original Improvements, there shall be issued general obligation renewal temporary notes of the City (the “Notes”). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessment taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 2.02 Description and Details of Notes. The Notes shall be issued in the total principal amount of \$37,375,000, and shall be designated “City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 226.” The Notes shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of the Notes. The Notes shall be dated the Dated Date, shall mature on the Maturity Date, and shall bear interest at the rate set forth on **Exhibit A** to this Resolution. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of 12 30-day months) and such interest shall become due and payable on the Interest Payment Date.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC one certificate, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Fiscal Agent shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the City shall act as the Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City has designated and appointed the Kansas State Treasurer, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as Note Registrar and Paying Agent for the Notes and the Mayor and City Clerk, or such other officer of the City as may be directed by the Mayor, are authorized to execute on behalf of the City any necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City.

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC’s nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Notes in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each Note (the “beneficial owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Notes are Subsequently Issued. Principal of and interest on the Notes shall be payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of debts due in the United States of America. Principal of and interest on the Notes shall be paid to the owner of each Note upon presentation and surrender of the Note on the Maturity Date at the principal office of the Fiscal Agent. The Fiscal Agent shall maintain at its offices a record of the payment of principal and interest on the Notes.

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City’s official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City’s official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the

State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature. Additionally, the Notes shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City's official seal affixed or imprinted opposite said countersignature.

Notwithstanding the provisions of the foregoing paragraph regarding the manner of and the method for the execution, registration and countersigning of the Notes, as a condition precedent to the authentication of the Notes by the Note Registrar and the issuance and delivery of the Notes to the Original Purchaser, one or more of the aforesaid signatures required to appear on the Notes shall be by manual signature of one or more of the aforementioned officials.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution. For the initial delivery of the Notes, which will consist of one certificate in book-entry-only form as described in **Section 2.04(A)** hereof, the Notes shall be authenticated by the City Clerk.

Section 2.06 Payment of Costs of Notes. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Notes. The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act for the purpose of renewing portions of the principal amount of the Original Notes. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated

form are issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

Section 2.08 Registration, Transfer and Exchange of Notes. The Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Fiscal Agent duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Fiscal Agent. Upon the surrender for transfer of any certificated Note at its office, the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Fiscal Agent may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Fiscal Agent, the Fiscal Agent shall transfer or exchange any Note(s) for new Note(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Note(s) presented for transfer or exchange. All Notes presented for transfer or exchange shall be surrendered to the Fiscal Agent for cancellation. Prior to delivery of any new Note(s) to the transferee, the Fiscal Agent shall register the same in the Registration Books and shall authenticate each such new Note.

The City and the Fiscal Agent shall not be required to issue, register, transfer or exchange any Notes during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Notes. In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Note Registrar shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Note Registrar, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Note Registrar and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Note Registrar. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender

thereof. The City and the Note Registrar may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

Section 2.10 Surrender and Cancellation of Notes. Whenever any Outstanding Note shall be delivered to the Note Registrar after full payment thereof or for replacement pursuant to this Resolution, such Note shall be canceled and destroyed by the Note Registrar and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Note Registrar to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

Section 2.11 Execution and Delivery of Notes. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Note Registrar for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF NOTES**

Section 3.01 Optional Redemption. At the option of the City, the Notes may be called for redemption and payment prior to their stated maturity, in whole or in part, on and after July 16, 2009 (the date being so set for redemption and payment being referred to as the “Redemption Date”). Notes called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), of 100% of the principal amount, plus accrued interest to the Redemption Date.

Section 3.02 Selection of Notes to be Redeemed. The Notes shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Notes at the time Outstanding, the Notes shall be redeemed in such equitable manner as the City shall determine, with Notes of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Notes by lot when Notes of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Note shall be treated as though it were a separate Note in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Note has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Note to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Note called for redemption, and (ii) for exchange, without charge to the Owner, for a new Note or Notes of the aggregate principal amount of the unredeemed portion of the principal amount of such Note. If the Owner of any Note of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Note as aforesaid, the \$5,000 units of the face value of such Note which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.03 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Notes so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Note or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Notes so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Notes or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Notes selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Note is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Note or Notes in the amount of the unredeemed portion of such Note as provided by **Section 3.02** above. All Notes selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 Effect of Call for Redemption. Whenever any Note, or one or more of the \$5,000 units of face value represented by any Note, has been selected for redemption and payment as provided in this Article, all interest on such Note, or such one or more of the \$5,000 units of face value represented by any such Note, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Redemption Fund for the City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 226;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 226, to be created within the City's Capital Project Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 226.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

ARTICLE V **APPLICATION OF NOTE PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Note Proceeds. Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes, and the portion of the Purchase Price which represents the premium, if any, paid on the Notes; and
- (B) To the Redemption Fund, the balance of the proceeds.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Notes as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the completion of the Original Improvements and the levying of special assessments against the real properties benefited thereby, any of such special assessments which are collected during the pay-in period shall be deposited into the Principal and Interest Account. Additionally, upon the issuance of the City's general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited into the Principal and Interest Account. Any other sums of moneys which are designed for payment of the costs of the Original Improvements, if any, shall likewise be deposited into the Principal and Interest Account.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Paying Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Paying Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Paying Agent in trust for and on behalf of the Owners of the Notes.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation Note issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Redemption Fund. The portion of the proceeds of the Notes deposited into the Redemption Fund as provided by the preceding **Section 5.01** shall be used solely for the purpose of paying a portion of the cost of refunding the Original Notes issued for the Original Improvements.

Section 5.06 Substitution of Improvements. The City may elect to substitute or add other improvements paid for with the proceeds of the Notes pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Notes to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvements and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Notes under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits Into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Note shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Notes.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Notes shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII

PROVISION FOR PAYMENT OF NOTES

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any

portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said moneys.

ARTICLE VIII **DEFAULT AND REMEDIES**

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the

Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify an improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon notes or the exchange of the fully registered Notes for such coupon notes, will not cause the interest on the Notes to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then

Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

- (A) Extend the Maturity Date of any Note;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;
- (C) Permit a preference or priority of any Note or Notes over any other Note or Notes; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned

on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any moneys and Government Obligations which at any time shall be deposited with the Paying Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Paying Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this

Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on January 13, 2009.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE ORIGINAL IMPROVEMENTS

EXHIBIT A

ADDITIONAL TERMS OF THE NOTES

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Note Ordinance” shall mean Ordinance No. _____ of the City, passed by the Governing Body on January 13, 2009, and authorizing and providing for the issuance of the Notes.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Notes.

“Purchase Price” for the Notes shall be the par value of the Notes plus accrued interest to the date of delivery, if any, plus a premium of \$_____.

Interest Rate. The Notes shall bear interest at the rate of _____% per annum.

RESOLUTION NO. 09-018

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 13, 2009

AUTHORIZING THE ISSUANCE OF

\$14,220,000

GENERAL OBLIGATION RENEWAL

TEMPORARY NOTES

SERIES 230

DATED FEBRUARY 19, 2009

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RESOLUTION NO. 09-018

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 230, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$14,220,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Note Ordinance (as herein defined), has authorized the issuance of the Notes in the aggregate principal amount of \$14,220,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements as listed on **Schedule I** and any Substitute Improvements as defined herein are collectively referred to as the “Original Improvements”) and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 224, dated August 19, 2008 (the “Original Notes”), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying a portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156 of the City, K.S.A. 10-101 *et seq.*, K.S.A. 10-123, K.S.A. 12-1770 *et seq.*, K.S.A. 12-685 *et seq.*, and K.S.A. 13-1024c, all as amended and supplemented, under the authority of which ordinances and statutes the Original Improvements were authorized, the Original Notes were issued and the Notes are issued.

“Authentication Date” shall mean the date on which a Note is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Note.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

- (A) For all purposes, including as defeasance investments in refunding escrow accounts:
 - (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or
 - (2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and
- (B) For all purposes other than defeasance investments in refunding escrow accounts:
 - (1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:
 - Export - Import Bank
 - Farmers Home Administration
 - General Services Administration
 - U.S. Maritime Administration
 - Small Business Administration

- Government National Mortgage Association (GNMA)
 - U.S. Department of Housing & Urban Development (PHA's)
 - Federal Housing Administration;
- (2) Bonds, notes or other evidences of indebtedness rated "AA" by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and "Aa2" by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;
 - (3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;
 - (4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;
 - (5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's or S&P;
 - (6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and

- (7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.
- (C) The value of the above investments shall be determined as of the end of each month. (See the definition of “Value” herein.)

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Notes or investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Original Improvements.

“Date of Issuance” shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Notes, which is February 19, 2009.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Notes for a single Bond Year, as described in the Code.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the State Treasurer of Kansas, and its successors and assigns.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Costs” shall mean the amount of capital expenditures for an Original Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Notes, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds unless such amounts are entitled to be reimbursed under State and Federal law.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Date” shall be November 19, 2009.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

“Maturity Date” means November 19, 2009.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Note Insurer insuring the payment when due of the principal of and interest on the Notes as described on **Exhibit A** to this Resolution.

“Note Insurer” mean any issuer of a Municipal Bond Insurance Policy described on **Exhibit A** to this Resolution.

“Note Ordinance” means the ordinance of the City authorizing the issuance of the Notes as further described on **Exhibit A** to this Resolution.

“Note Registrar” shall mean the City, or such other entity maintaining Registration Books on behalf of the City as set forth in **Section 2.03** hereof, and its successors and assigns.

“Noteowner(s)” shall mean the Owner(s) of the Notes.

“Notes” shall mean the \$14,220,000 original principal amount of General Obligation Renewal Temporary Notes, Series 230, dated February 19, 2009, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

“Original Notes” means the notes previously issued by the City described in the preamble to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Notes to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Notes described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Paying Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Paying Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Note, the person or entity in whose name the Note is registered as shown on the Registration Books maintained on behalf of the City.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the City, or such other entity acting on behalf of the City as Paying Agent for the Notes as set forth in **Section 2.03** hereof, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Capital Project Fund pursuant to **Article IV** hereof, which is created and shall

be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

“Principal Payment Date” shall mean the Maturity Date.

“Purchase Price” means the original purchase price of the Notes described on **Exhibit A** to this Resolution.

“Record Date” shall mean fifteen days prior to the Maturity Date.

“Redemption Fund” shall mean the Series 224 Principal and Interest Account previously created within the City’s Capital Project Fund for the purpose of receiving and disbursing funds for the payment of the Original Notes.

“Registration Books” shall mean the books maintained on behalf of the City by the Note Registrar for the registration and transfer from time to time of the ownership of the Notes.

“Resolution” or “Note Resolution” shall mean this Resolution adopted by the Governing Body of the City on January 13, 2009, prescribing the terms and details of the Notes.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.06** of this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and banker’s acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 Authorization of and Security for Notes. Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the

necessary funds to provide interim financing for a portion of the Original Improvements, there shall be issued general obligation renewal temporary notes of the City (the “Notes”). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessment taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 2.02 Description and Details of Notes. The Notes shall be issued in the total principal amount of \$14,220,000, and shall be designated “City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 230.” The Notes shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of the Notes. The Notes shall be dated the Dated Date, shall mature on the Maturity Date, and shall bear interest at the rate set forth on **Exhibit A** to this Resolution. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of 12 30-day months) and such interest shall become due and payable on the Interest Payment Date.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC one certificate, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Fiscal Agent shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the City shall act as the Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City has designated and appointed the Kansas State Treasurer, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as Note Registrar and Paying Agent for the Notes and the Mayor and City Clerk, or such other officer of the City as may be directed by the Mayor, are authorized to execute on behalf of the City any necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City.

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC’s nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificate will be immobilized in its custody. Purchases of the Notes in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each Note (the “beneficial owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Notes are Subsequently Issued. Principal of and interest on the Notes shall be payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of debts due in the United States of America. Principal of and interest on the Notes shall be paid to the owner of each Note upon presentation and surrender of the Note on the Maturity Date at the principal office of the Fiscal Agent. The Fiscal Agent shall maintain at its offices a record of the payment of principal and interest on the Notes.

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City’s official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City’s official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the

State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature. Additionally, the Notes shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City's official seal affixed or imprinted opposite said countersignature.

Notwithstanding the provisions of the foregoing paragraph regarding the manner of and the method for the execution, registration and countersigning of the Notes, as a condition precedent to the authentication of the Notes by the Note Registrar and the issuance and delivery of the Notes to the Original Purchaser, one or more of the aforesaid signatures required to appear on the Notes shall be by manual signature of one or more of the aforementioned officials.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution. For the initial delivery of the Notes, which will consist of one certificate in book-entry-only form as described in **Section 2.04(A)** hereof, the Notes shall be authenticated by the City Clerk.

Section 2.06 Payment of Costs of Notes. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Notes. The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act and for the interim financing of portions of the Original Improvements. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated form are

issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

Section 2.08 Registration, Transfer and Exchange of Notes. The Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Fiscal Agent duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Fiscal Agent. Upon the surrender for transfer of any certificated Note at its office, the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Fiscal Agent may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Fiscal Agent, the Fiscal Agent shall transfer or exchange any Note(s) for new Note(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Note(s) presented for transfer or exchange. All Notes presented for transfer or exchange shall be surrendered to the Fiscal Agent for cancellation. Prior to delivery of any new Note(s) to the transferee, the Fiscal Agent shall register the same in the Registration Books and shall authenticate each such new Note.

The City and the Fiscal Agent shall not be required to issue, register, transfer or exchange any Notes during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Notes. In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Note Registrar shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Note Registrar, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Note Registrar and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Note Registrar. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender

thereof. The City and the Note Registrar may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

Section 2.10 Surrender and Cancellation of Notes. Whenever any Outstanding Note shall be delivered to the Note Registrar after full payment thereof or for replacement pursuant to this Resolution, such Note shall be canceled and destroyed by the Note Registrar and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Note Registrar to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

Section 2.11 Execution and Delivery of Notes. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Note Registrar for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF NOTES**

Section 3.01 Optional Redemption. At the option of the City, the Notes may be called for redemption and payment prior to their stated maturity, in whole or in part, on and after July 16, 2009 (the date being so set for redemption and payment being referred to as the “Redemption Date”). Notes called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), of 100% of the principal amount, plus accrued interest to the Redemption Date.

Section 3.02 Selection of Notes to be Redeemed. The Notes shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Notes at the time Outstanding, the Notes shall be redeemed in such equitable manner as the City shall determine, with Notes of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Notes by lot when Notes of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Note shall be treated as though it were a separate Note in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Note has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Note to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Note called for redemption, and (ii) for exchange, without charge to the Owner, for a new Note or Notes of the aggregate principal amount of the unredeemed portion of the principal amount of such Note. If the Owner of any Note of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Note as aforesaid, the \$5,000 units of the face value of such Note which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.03 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Notes so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Note or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Notes so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Notes or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Notes selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Note is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Note or Notes in the amount of the unredeemed portion of such Note as provided by **Section 3.02** above. All Notes selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 Effect of Call for Redemption. Whenever any Note, or one or more of the \$5,000 units of face value represented by any Note, has been selected for redemption and payment as provided in this Article, all interest on such Note, or such one or more of the \$5,000 units of face value represented by any such Note, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Redemption Fund for the City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 230;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 230, to be created within the City's Capital Project Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Renewal Temporary Notes, Series 230.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

ARTICLE V **APPLICATION OF NOTE PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Note Proceeds. Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes, and the portion of the Purchase Price which represents the premium, if any, paid on the Notes; and
- (B) To the Redemption Fund, the balance of the proceeds.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Notes as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the completion of the Original Improvements and the levying of special assessments against the real properties benefited thereby, any of such special assessments which are collected during the pay-in period shall be deposited into the Principal and Interest Account. Additionally, upon the issuance of the City's general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited into the Principal and Interest Account. Any other sums of moneys which are designated for payment of the costs of the Notes, if any, shall likewise be deposited into the Principal and Interest Account.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Paying Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Paying Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Paying Agent in trust for and on behalf of the Owners of the Notes.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation note issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Redemption Fund. The portion of the proceeds of the Notes deposited into the Redemption Fund as provided by the preceding **Section 5.01** shall be used solely for the purpose of paying a portion of the cost of refunding the Original Notes issued for the Original Improvements.

Section 5.06 Substitution of Improvements. The City may elect to substitute or add other improvements paid for with the proceeds of the Notes pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Notes to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvements and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Notes under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits Into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Note shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Notes.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Notes shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII

PROVISION FOR PAYMENT OF NOTES

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any

portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said moneys.

ARTICLE VIII **DEFAULT AND REMEDIES**

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the

Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify an improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon notes or the exchange of the fully registered Notes for such coupon notes, will not cause the interest on the Notes to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then

Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

- (A) Extend the Maturity Date of any Note;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;
- (C) Permit a preference or priority of any Note or Notes over any other Note or Notes; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned

on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any moneys and Government Obligations which at any time shall be deposited with the Paying Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Paying Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this

Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE ORIGINAL IMPROVEMENTS

EXHIBIT A

ADDITIONAL TERMS OF THE NOTES

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Note Ordinance” shall mean Ordinance No. _____ of the City, passed by the Governing Body on January 13, 2009, and authorizing and providing for the issuance of the Notes.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Notes.

“Purchase Price” for the Notes shall be the par value of the Notes plus accrued interest to the date of delivery, if any, plus a premium of \$_____.

Interest Rate. The Notes shall bear interest at the rate of _____% per annum.

RESOLUTION NO. 09-019

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 13, 2009

AUTHORIZING THE ISSUANCE OF

\$33,310,000

GENERAL OBLIGATION BONDS

SERIES 787

DATED FEBRUARY 1, 2009

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RESOLUTION NO. 09-019

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 787, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$33,310,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount of \$33,310,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156, K.S.A. 10-101 *et seq.*, K.S.A. 12-1736 *et seq.* and K.S.A. 13-1024c, all as amended and supplemented.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

- (A) For all purposes, including as defeasance investments in refunding escrow accounts:
- (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or
 - (2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and
- (B) For all purposes other than defeasance investments in refunding escrow accounts:
- (1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:
 - Export - Import Bank
 - Farmers Home Administration
 - General Services Administration
 - U.S. Maritime Administration
 - Small Business Administration
 - Government National Mortgage Association (GNMA)
 - U.S. Department of Housing & Urban Development (PHA's)
 - Federal Housing Administration;
 - (2) Bonds, notes or other evidences of indebtedness rated "AA" by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and "Aa2" by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;
 - (3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;
 - (4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to

principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

- (5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's or S&P;
- (6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and
- (7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.

- (C) The value of the above investments shall be determined as of the end of each month. (See the definition of "Value" herein.)

"Bond Counsel" shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

"Bond Insurer" mean any issuer of a Municipal Bond Insurance Policy, if applicable, described on **Exhibit A** to this Resolution.

"Bond Ordinance" means the ordinance authorizing the issuance of the Bonds as further described on **Exhibit A** to this Resolution.

"Bond Registrar" shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

"Bondowner(s)" shall mean the Owner(s) of the Bonds.

"Bonds" shall mean the \$33,310,000 original principal amount of General Obligation Bonds, Series 787, dated February 1, 2009, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is February 1, 2009.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be June 1 and December 1 of each year commencing June 1, 2010, and ending June 1, 2024, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as described on **Exhibit A** to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean June 1 of each year, commencing June 1, 2010, and ending June 1, 2024, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” means the original purchase price of the Bonds described on **Exhibit A** to this Resolution.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution, adopted by the Governing Body of the City on January 13, 2009, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

“Term Bonds” means the Term Bonds, if any, described on **Exhibit A** to this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$33,310,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 787.” All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the “Principal Payment Dates”). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates.

The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the

Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) **In the Event Certificated Bonds are Subsequently Issued.** The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such

signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate

principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of

the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF BONDS**

Section 3.01 Optional Redemption. The Bonds maturing June 1, 2010 to June 1, 2016, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing June 1, 2017, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after June 1, 2016. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the “Redemption Date”). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
June 1, 2016, through July 31, 2017	101.00%
June 1, 2017, through July 31, 2018	100.50%
June 1, 2018, and thereafter	100.00%

Section 3.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit A** to this Resolution.

Section 3.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.04 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by **Section 3.02** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 787;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 787, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 787.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V **APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds and the portion of the Purchase Price which represents the premium, if any, paid on the Bonds; and
- (B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 Substitution of Improvements. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvements and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI

DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by the Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII

PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII

DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or

Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action

or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as

appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Bond Ordinance” means Ordinance No. _____ of the City, passed by the Governing Body on January 13, 2009, and authorizing and providing for the issuance of the Bonds.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Bonds.

“Purchase Price” for the Bonds shall be the par value of the Bonds plus accrued interest to the date of delivery plus a premium of \$_____.

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>
June 1, 2010	\$2,395,000	%
June 1, 2011	2,510,000	
June 1, 2012	2,635,000	
June 1, 2013	2,770,000	
June 1, 2014	2,910,000	
June 1, 2015	3,055,000	
June 1, 2016	3,205,000	
June 1, 2017	3,370,000	
June 1, 2018	3,535,000	
June 1, 2019	3,710,000	
June 1, 2020	580,000	
June 1, 2021	610,000	
June 1, 2022	640,000	
June 1, 2023	675,000	
June 1, 2024	710,000	

RESOLUTION NO. 09-020

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 13, 2009

AUTHORIZING THE ISSUANCE OF

\$9,590,000

GENERAL OBLIGATION BONDS

SERIES 796

DATED FEBRUARY 1, 2009

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RESOLUTION NO. 09-020

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 796, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$9,590,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount of \$9,590,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean K.S.A. 10-101 *et seq.*, as amended and supplemented, and K.S.A. 12-6a01 *et seq.*, as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

- (A) For all purposes, including as defeasance investments in refunding escrow accounts:
- (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or
 - (2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and
- (B) For all purposes other than defeasance investments in refunding escrow accounts:
- (1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:
 - Export - Import Bank
 - Farmers Home Administration
 - General Services Administration
 - U.S. Maritime Administration
 - Small Business Administration
 - Government National Mortgage Association (GNMA)
 - U.S. Department of Housing & Urban Development (PHA's)
 - Federal Housing Administration;
 - (2) Bonds, notes or other evidences of indebtedness rated "AA" by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and "Aa2" by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;
 - (3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;
 - (4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to

principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

- (5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's or S&P;
 - (6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and
 - (7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.
- (C) The value of the above investments shall be determined as of the end of each month. (See the definition of "Value" herein.)

"Bond Counsel" shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

"Bond Insurer" mean any issuer of a Municipal Bond Insurance Policy, if applicable, described on **Exhibit A** to this Resolution.

"Bond Ordinance" means the ordinance authorizing the issuance of the Bonds as further described on **Exhibit A** to this Resolution.

"Bond Registrar" shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

"Bondowner(s)" shall mean the Owner(s) of the Bonds.

"Bonds" shall mean the \$9,590,000 original principal amount of General Obligation Bonds, Series 796, dated February 1, 2009, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is February 1, 2009.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be March 1 and September 1 of each year commencing March 1, 2010, and ending September 1, 2024, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as described on **Exhibit A** to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean September 1 of each year, commencing September 1, 2010, and ending September 1, 2024, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” means the original purchase price of the Bonds described on **Exhibit A** to this Resolution.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution, adopted by the Governing Body of the City on January 13, 2009, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

“Term Bonds” means the Term Bonds, if any, described on **Exhibit A** to this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$9,590,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 796.” All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the “Principal Payment Dates”). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the

basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates.

The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) **In the Event Certificated Bonds are Subsequently Issued.** The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay

in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF BONDS**

Section 3.01 Optional Redemption. The Bonds maturing September 1, 2010 to September 1, 2016, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing September 1, 2017, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after September 1, 2016. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the “Redemption Date”). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
September 1, 2016, through August 31, 2017	101.00%
September 1, 2017, through August 31, 2018	100.50%
September 1, 2018, and thereafter	100.00%

Section 3.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit A** to this Resolution.

Section 3.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in

such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.04 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by

Section 3.02 above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 796;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 796, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 796.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V **APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds and the portion of the Purchase Price which represents the premium, if any, paid on the Bonds; and
- (B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other

sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 Substitution of Improvements. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment

to the transcript of proceedings for the Bonds to include the Substitute Improvements and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI

DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by the Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax

Matters (such amounts herein referred to as the “Rebate Amounts”). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City’s General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City’s obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII

PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to

be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII **DEFAULT AND REMEDIES**

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other

remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;

- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations

which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI **MISCELLANEOUS PROVISIONS**

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held

to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Bond Ordinance” means Ordinance No. _____ of the City, passed by the Governing Body on January 13, 2009, and authorizing and providing for the issuance of the Bonds.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Bonds.

“Purchase Price” for the Bonds shall be the par value of the Bonds plus accrued interest to the date of delivery plus a premium of \$_____.

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>
September 1, 2010	\$445,000	%
September 1, 2011	465,000	
September 1, 2012	490,000	
September 1, 2013	515,000	
September 1, 2014	540,000	
September 1, 2015	565,000	
September 1, 2016	595,000	
September 1, 2017	625,000	
September 1, 2018	655,000	
September 1, 2019	690,000	
September 1, 2020	725,000	
September 1, 2021	760,000	
September 1, 2022	800,000	
September 1, 2023	840,000	
September 1, 2024	880,000	

RESOLUTION NO. 09-021

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 13, 2009

AUTHORIZING THE ISSUANCE OF

\$9,440,000

GENERAL OBLIGATION BONDS

SERIES 796A

DATED FEBRUARY 1, 2009

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RESOLUTION NO. 09-021

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 796A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$9,440,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the “City”), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount of \$9,440,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I **DEFINITIONS**

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean K.S.A. 10-101 *et seq.*, as amended and supplemented, and K.S.A. 12-6a01 *et seq.*, as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

“Authentication Date” shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Bond.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

- (A) For all purposes, including as defeasance investments in refunding escrow accounts:
 - (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or
 - (2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and
- (B) For all purposes other than defeasance investments in refunding escrow accounts:
 - (1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:
 - Export - Import Bank
 - Farmers Home Administration
 - General Services Administration
 - U.S. Maritime Administration
 - Small Business Administration
 - Government National Mortgage Association (GNMA)
 - U.S. Department of Housing & Urban Development (PHA's)
 - Federal Housing Administration;
 - (2) Bonds, notes or other evidences of indebtedness rated “AA” by Standard & Poor’s, a Division of the McGraw-Hill Companies (“S&P”) and “Aa2” by Moody’s Investor Services (“Moody’s”) issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;
 - (3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;

- (4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the “escrow”), in the highest rating category of S&P and Moody’s, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;
 - (5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody’s or S&P;
 - (6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and
 - (7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.
- (C) The value of the above investments shall be determined as of the end of each month. (See the definition of “Value” herein.)

“Bond Counsel” shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Bond Insurer” mean any issuer of a Municipal Bond Insurance Policy described on Exhibit A to this Resolution.

“Bond Ordinance” means the ordinance authorizing the issuance of the Bonds as further described on Exhibit A to this Resolution.

“Bond Registrar” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Bondowner(s)” shall mean the Owner(s) of the Bonds.

“Bonds” shall mean the \$9,440,000 original principal amount of General Obligation Bonds, Series 796A, dated February 1, 2009, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution.

“Certificate as to Arbitrage and Related Tax Matters” shall mean the Certificate as to Arbitrage and Related Tax Matters, dated as of and delivered on the Date of Issuance, executed by the City, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

“City” shall mean the City of Wichita, Kansas.

“City Clerk” shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk’s absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

“Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

“Date of Issuance” shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

“Dated Date” shall mean the dated date of the Bonds which is February 1, 2009.

“Debt Service” shall mean the scheduled amount of interest and maturing principal payable on the Bonds for a single Bond Year, as described in the Code.

“Debt Service Fund” shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City’s general obligation indebtedness.

“Direct Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Director of Finance” shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance’s absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

“DTC” shall mean The Depository Trust Company and its successors or assigns.

“Excess Earnings Account” shall mean the Excess Earnings Account created pursuant to Article IV hereof.

“Fiscal Agent” shall mean the Bond Registrar and/or the Paying Agent.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by Article IV hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

“Improvements” shall mean the capital improvements constructed in the City as described on Schedule I hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Dates” shall be March 1 and September 1 of each year commencing March 1, 2010, and ending September 1, 2029, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as described on Exhibit A to this Resolution.

“Original Proceeds” shall mean all of the proceeds, including accrued interest, derived from the sale of the Bonds to the Original Purchaser.

“Original Purchaser” means the original purchaser of the Bonds described on Exhibit A to this Resolution.

“Outstanding,” when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Debt Service Fund pursuant to Article IV hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

“Principal Payment Date” shall mean September 1 of each year, commencing September 1, 2010, and ending September 1, 2029, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

“Purchase Price” means the original purchase price of the Bonds described on Exhibit A to this Resolution.

“Record Date” shall mean the 15th day of a month next preceding an Interest Payment Date.

“Registration Books” shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

“Resolution” or “Bond Resolution” shall mean this Resolution adopted by the Governing Body of the City on January 13, 2009, prescribing the terms and details of the Bonds.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to Section 5.08 of this Resolution.

“Term Bonds” means the Term Bonds, if any, described on Exhibit A to this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and

- (C) As to certificates of deposit and bankers acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the “Bonds”). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be issued in the total principal amount of \$9,440,000 and shall be designated “City of Wichita, Kansas, General Obligation Bonds, Series 796A.” All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on Exhibit A to this Resolution (the “Principal Payment Dates”). The Bonds shall bear interest at the rates described on Exhibit A to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates.

The Bonds shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of

Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following Section 2.04(A) and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following Section 2.04(B).

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) **Bonds Issued and Delivered in Book-Entry-Only Form.** One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations

permitted by Section 2.02 hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Bonds are Subsequently Issued. The principal of, premium, if any, and the interest on the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and premium, if any, on the Bonds shall be paid to the Owner of each Bond upon presentation and surrender of the Bond to the Paying Agent for payment and cancellation on the maturity date or redemption date, as the case may be, of the Bond. The interest on the Bonds shall be mailed by the Paying Agent to the Owner of each Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be

necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with Section 2.04(A) of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the

Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF BONDS**

Section 3.01 Optional Redemption. The Bonds maturing September 1, 2010, to September 1, 2019, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing September 1, 2020, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after September 1, 2019. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the “Redemption Date”). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
September 1, 2019, through August 31, 2020	101.00%
September 1, 2020, through August 31, 2021	100.50%
September 1, 2021, and thereafter	100.00%

Section 3.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on Exhibit A to this Resolution.

Section 3.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds

shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the \$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.04 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the

Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by Section 3.02 above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 796A;
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 796A, to be created within the City's Debt Service Fund; and
- (C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 796A.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V **APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by Article IV of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds and the portion of the Purchase Price which represents the premium, if any, paid on the Bonds; and

(B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all

Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 Substitution of Improvements. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvements and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI **DEPOSITS AND INVESTMENT OF MONEYS**

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by the Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any

ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;
- (C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI **MISCELLANEOUS PROVISIONS**

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the

Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall

approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita,
Kansas, on January 13, 2009.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below

“Bond Ordinance” means Ordinance No. _____ of the City, passed by the Governing Body on January 13, 2009, and authorizing and providing for the issuance of the Bonds.

“Original Purchaser” means _____,
_____, _____, the original purchaser of the Bonds.

“Purchase Price” for the Bonds shall be the par value of the Bonds plus accrued interest to the date of delivery plus a premium of \$_____.

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

Maturity Schedule

<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Maturing Principal</u>	<u>Interest Rate</u>
09/01/10	\$285,000	%	09/01/20	\$465,000	%
09/01/11	300,000		09/01/21	490,000	
09/01/12	315,000		09/01/22	515,000	
09/01/13	330,000		09/01/23	540,000	
09/01/14	345,000		09/01/24	565,000	
09/01/15	365,000		09/01/25	595,000	
09/01/16	385,000		09/01/26	625,000	
09/01/17	400,000		09/01/27	655,000	
09/01/18	420,000		09/01/28	680,000	
09/01/19	445,000		09/01/29	720,000	

ORDINANCE NO. 48-164

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 226, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$37,375,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and provides further that any municipality may issue renewal temporary notes to pay the costs of redeeming any previously issued temporary notes as they mature when the improvement will not be completed at the maturity date of the notes or when the improvement has been completed but the issuance of such bonds is prevented, hindered or delayed; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 224, dated August 19, 2008 (the “Original Notes”), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for

the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, the Governing Body, pursuant to Resolution No. 08-563 duly adopted December 16, 2008, as amended by Resolution No. 09-_____ duly adopted on January 6, 2009, advertised for bids at a public sale for not to exceed \$37,375,000 of the City's General Obligation Renewal Temporary Notes, Series 226, for the purpose of renewing interim financing for the Original Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-997 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-997, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Renewal and Improvement Temporary Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew a portion of the principal amount of the Original Notes all as further described on Schedule I to the Note Resolution, there shall be issued general obligation renewal temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessments taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the “Note Resolution”) hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall make provision for the payment of the principal of and interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements and the Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements or the Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have

caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Note Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain issued in book-entry-only form, the City shall act as Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and interest on the Notes, and DTC will remit such principal and interest to its Direct Participants for the distribution to the beneficial owners in the manner set forth in Section 2.04(A) of the Note Resolution and as governed by the terms of the Letter of Representation.

In the event the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City hereby designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as the initial Paying Agent and Note Registrar for the Notes, and the Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books on behalf of the City.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall

approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 8. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on
January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 48-165

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 229 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$10,475,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Improvement Temporary Notes, Series 225, dated August 19, 2008 ("Original Notes"), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, the Governing Body, pursuant to Resolution No. 08-563 duly adopted December 16, 2008, as amended by Resolution No. 09-____ duly adopted on January 6, 2009, advertised for bids at a public sale for \$10,475,000 of the City's General Obligation Renewal and Improvement Temporary Notes, Series 229 (Taxable Under Federal Law), for the purpose of providing interim financing for the Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-997 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-997, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew the principal amount of the Original Notes and for the interim financing of the Improvement Costs all as further described on Schedule I to the Note Resolution, there shall be issued general obligation renewal and improvement temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose. It is further anticipated that a portion of the Notes will be payable from tax increment revenues generated from certain tax increment districts within the City.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the “Note Resolution”) hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants to provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes.

Section 5. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain issued in book-entry-only form, the City shall act as Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and interest on the Notes, and DTC will remit such principal and interest to its Direct Participants for the distribution to the beneficial owners in the manner set forth in Section 2.04(A) of the Note Resolution and as governed by the terms of the Letter of Representation.

In the event the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City hereby designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as the initial Paying Agent and Note Registrar for the Notes, and the Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books on behalf of the City.

Section 6. Further Authority. The Governing Body hereby authorizes orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates

required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 7. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on
January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 48-167

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 787, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$33,310,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the “Improvements” as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid by the issuance of general obligation bonds of the City and other available funds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of \$33,310,000, all of which payable by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City’s general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, the Governing Body, pursuant to Resolution No. 08-563 duly adopted December 16, 2008, as amended by Resolution No. 09- ____ duly adopted on January 6, 2009, advertised for bids at a public sale for an amount not to exceed \$33,310,000 of the City’s General Obligation Bonds, Series 787, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-996 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-996, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the "Bonds"). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of and interest on the Bonds as and when the same becomes due and payable by levying and collecting the

necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days’ written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution.

The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 48-168

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 796, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,590,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the “Improvements” as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any cash paid by the owners of the real properties against which special assessments therefore were levied and less other available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of \$9,590,000, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City’s general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, the Governing Body, pursuant to Resolution No. 08-563 duly adopted December 16, 2008, as amended by Resolution No. 09- ____ duly adopted on January 6, 2009, advertised for bids at a public sale for an amount not to exceed \$9,590,000 of the City’s General Obligation Bonds, Series 796, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-996 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-996, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the "Bonds"). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if

any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days’ written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal

of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 796A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,440,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the “Improvements” as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any cash paid by the owners of the real properties against which special assessments therefore were levied and less other available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of \$9,440,000, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City’s general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, the Governing Body, pursuant to Resolution No. 08-563 duly adopted December 16, 2008, as amended by Resolution No. 09-____ duly adopted on January 6, 2009, advertised for bids at a public sale for an amount not to exceed \$9,440,000 of the City’s General

Obligation Bonds, Series 796A, for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-996 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-996, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution herein referenced.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, there shall be issued general obligation bonds of the City (the "Bonds"). In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will

comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the

Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on
January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 48-166

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 230, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$14,220,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the City of Wichita, Kansas (the “City”), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and provides further that any municipality may issue renewal temporary notes to pay the costs of redeeming any previously issued temporary notes as they mature when the improvement will not be completed at the maturity date of the notes or when the improvement has been completed but the issuance of such bonds is prevented, hindered or delayed; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 224, dated August 19, 2008 (the “Original Notes”), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for

the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, the Governing Body, pursuant to Resolution No. 08-563 duly adopted December 16, 2008, as amended by Resolution No. 09-_____ duly adopted on January 6, 2009, advertised for bids at a public sale for not to exceed \$14,220,000 of the City's General Obligation Renewal Temporary Notes, Series 230, for the purpose of renewing interim financing for the Original Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on February 27, 1996, adopted Ordinance No. 42-997 establishing a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12, and said Ordinance No. 42-997, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the General Obligation Renewal and Improvement Temporary Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew a portion of the principal amount of the Original Notes all as further described on Schedule I to the Note Resolution, there shall be issued general obligation renewal temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessments taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the “Note Resolution”) hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall make provision for the payment of the principal of and interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements and the Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements or the Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have

caused the Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Note Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain issued in book-entry-only form, the City shall act as Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and interest on the Notes, and DTC will remit such principal and interest to its Direct Participants for the distribution to the beneficial owners in the manner set forth in Section 2.04(A) of the Note Resolution and as governed by the terms of the Letter of Representation.

In the event the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City hereby designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as the initial Paying Agent and Note Registrar for the Notes, and the Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books on behalf of the City.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall

approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 8. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

[Remainder of Page Intentionally Left Blank]

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on
January 13, 2009.

(Seal)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, January 13, 2009, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 796, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,590,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 796 Bonds occur on the same day bids are received and to enable the City to deliver the Series 796 Bonds authorized by said Ordinance on February 19, 2009.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 13, 2009.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, January 13, 2009, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 796A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,440,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 796A Bonds occur on the same day bids are received and to enable the City to deliver the Series 796A Bonds authorized by said Ordinance on February 19, 2009.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 13, 2009.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, January 13, 2009, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 226, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$37,375,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 226 Notes occur on the same day bids are received and to enable the City to deliver the Series 226 Notes authorized by said Ordinance on February 19, 2009.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 13, 2009.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, January 13, 2009, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 229 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$10,475,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 229 Notes occur on the same day bids are received and to enable the City to deliver the Series 229 Notes authorized by said Ordinance on February 19, 2009.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 13, 2009.

Carl Brewer, Mayor

Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, January 13, 2009, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL TEMPORARY NOTES, SERIES 230, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED \$14,220,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 230 Notes occur on the same day bids are received and to enable the City to deliver the Series 230 Notes authorized by said Ordinance on February 19, 2009.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 13, 2009.

Carl Brewer, Mayor

Karen Sublett, City Clerk

RESOLUTION NO. 09-017

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 13, 2009

AUTHORIZING THE ISSUANCE OF

\$10,475,000

GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES

SERIES 229

(TAXABLE UNDER FEDERAL LAW)

DATED FEBRUARY 19, 2009

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RESOLUTION NO. 09-017

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 229 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$10,475,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Note Ordinance (as herein defined), has authorized the issuance of the Notes in the aggregate principal amount of \$10,475,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements as listed on **Schedule I** are herein collectively referred to as the "Original Improvements"), and of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Improvements as listed on **Schedule I** are herein collectively referred to as the "Improvements") and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Improvement Temporary Notes, Series 225, dated August 19, 2008 (the "Original Notes"), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are

or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Act” shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156, K.S.A. 10-101 *et seq.*, K.S.A. 10-123, K.S.A. 12-1770 *et seq.* and K.S.A. 13-1024c, all as amended and supplemented, under the authority of which ordinances and statutes the Improvements were authorized and the Notes are issued.

“Authentication Date” shall mean the date on which a Note is registered and authenticated by the Fiscal Agent as shown on a Certificate of Authentication printed on the Note.

“Authorized Investments” shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

- (A) For all purposes, including as defeasance investments in refunding escrow accounts:
 - (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or
 - (2) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America; and
- (B) For all purposes other than defeasance investments in refunding escrow accounts:

- (1) Obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:
 - Export - Import Bank
 - Farmers Home Administration
 - General Services Administration
 - U. S. Maritime Administration
 - Small Business Administration
 - Government National Mortgage Association (GNMA)
 - U. S. Department of Housing & Urban Development (PHA's)
 - Federal Housing Administration;
- (2) Bonds, notes or other evidences of indebtedness rated "AA" by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and "Aa2" by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding four years;
- (3) Investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;
- (4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of Kansas or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

- (5) Investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in any of the three highest rating categories by Moody's or S&P;
 - (6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and
 - (7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation.
- (C) The value of the above investments shall be determined as of the end of each month. (See the definition of "Value" herein.)

"Bond Counsel" shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

"City" shall mean the City of Wichita, Kansas.

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

"Date of Issuance" shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Notes which is February 19, 2009.

"Direct Participants" shall have the meaning set forth in and defined by the Letter of Representation.

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

“Fiscal Agent” shall mean the State Treasurer of Kansas, and its successors and assigns.

“Fiscal Year” shall mean the fiscal year of the City, currently being the 12-months ending each December 31.

“Governing Body” shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Government Obligations” means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

“Improvement Account” shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

“Improvement Costs” shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Notes, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds unless such amounts are entitled to be reimbursed under State law.

“Improvements” shall mean the newly commenced capital improvements constructed in the City as described on Schedule I hereto or any Substitute Improvements.

“Indirect Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Interest Payment Date” shall be November 19, 2009.

“Letter of Representation” shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

“Maturity Date” means November 19, 2009.

“Mayor” shall mean the duly elected and acting Mayor of the City or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Municipal Bond Insurance Policy” shall mean, if applicable, the municipal bond insurance policy issued by Note Insurer insuring the payment when due of the principal of and interest on the Notes as described on Exhibit A to this Resolution.

“Note Insurer” mean any issuer of a Municipal Bond Insurance Policy described on Exhibit A to this Resolution.

“Note Ordinance” means the ordinance of the City authorizing the issuance of the Notes as further described on Exhibit A to this Resolution.

“Note Registrar” shall mean the City, or such other entity maintaining Registration Books on behalf of the City as set forth in **Section 2.03** hereof, and its successors and assigns.

“Noteowner(s)” shall mean the Owner(s) of the Notes.

“Notes” shall mean the \$10,475,000 original principal amount of General Obligation Renewal and Improvement Temporary Notes, Series 229 (Taxable Under Federal Law), dated as of February 19, 2009, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

“Original Notes” means the notes previously issued by the City described in the preamble to this Resolution.

“Original Purchaser” means the original purchaser of the Notes described on Exhibit A to this Resolution.

“Outstanding,” when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Paying Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Paying Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

“Owner(s)” or “Registered Owner(s)” shall mean, when used with respect to any Note, the person or entity in whose name the Note is registered as shown on the Registration Books maintained on behalf of the City.

“Participants” shall have the meaning set forth in and defined by the Letter of Representation.

“Paying Agent” shall mean the City, or such other entity acting on behalf of the City as Paying Agent for the Notes as set forth in **Section 2.03** hereof, and its successors and assigns.

“Principal and Interest Account” shall mean the Principal and Interest Account created within the City’s Capital Project Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

“Principal Payment Date” shall mean the Maturity Date.

“Purchase Price” means the original purchase price of the Notes described on Exhibit A to this Resolution.

“Record Date” shall mean fifteen days prior to the Maturity Date.

“Redemption Fund” shall mean the Series 225 Principal and Interest Account previously created within the City’s Capital Project Fund for the purpose of receiving and disbursing funds for the payment of the Original Notes.

“Registration Books” shall mean the books maintained on behalf of the City by the Note Registrar for the registration and transfer from time to time of the ownership of the Notes.

“Resolution” or “Note Resolution” shall mean this Resolution adopted by the Governing Body of the City on January 13, 2009, prescribing the terms and details of the Notes.

“State” shall mean the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements authorized pursuant to **Section 5.09** of this Resolution.

“Value” shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

- (A) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*) -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination,
- (B) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, and
- (C) As to certificates of deposit and banker’s acceptances — the face amount thereof, plus accrued interest.

ARTICLE II

AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 Authorization of and Security for Notes. Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to provide interim financing for the Improvements, there shall be issued general obligation renewal and improvement temporary notes of the City (the “Notes”). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose. It is further anticipated that a portion of the Notes will be payable from tax increment generated from certain tax increment districts in the City.

Section 2.02 Description and Details of Notes. The Notes shall be issued in the total principal amount of \$10,475,000, and shall be designated “City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 229 (Taxable Under Federal Law).” The Notes shall be issued in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of the Notes. The Notes shall be dated the Dated Date, shall mature on the Maturity Date, and shall bear interest at the rate set forth on Exhibit A to this Resolution. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of 12 30-day months) and such interest shall become due and payable on the Interest Payment Date.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC one certificate, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Fiscal Agent shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the City shall act as the Note Registrar, through the Office of the City Clerk and shall act as Paying Agent through the Department of Finance, and shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct

Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the City has designated and appointed the Kansas State Treasurer, Topeka, Kansas (herein sometimes referred to as the “Fiscal Agent”), as Note Registrar and Paying Agent for the Notes and the Mayor and City Clerk, or such other officer of the City as may be directed by the Mayor, are authorized to execute on behalf of the City any necessary agreements with the Fiscal Agent to effectuate this designation. The Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City.

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC’s nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificate will be immobilized in its custody. Purchases of the Notes in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each Note (the “beneficial owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Notes are Subsequently Issued. Principal of and interest on the Notes shall be payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of debts due in the United States of America. Principal of and interest on the Notes shall be paid to the owner of each Note upon presentation and surrender of the Note on the Maturity Date at the principal office of the Fiscal Agent. The Fiscal Agent shall maintain at its offices a record of the payment of principal and interest on the Notes.

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City’s official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City’s official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the State Treasurer in the municipal bond register in her office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer’s official seal opposite such signature. Additionally, the Notes

shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City's official seal affixed or imprinted opposite said countersignature.

Notwithstanding the provisions of the foregoing paragraph regarding the manner of and the method for the execution, registration and countersigning of the Notes, as a condition precedent to the authentication of the Notes by the Note Registrar and the issuance and delivery of the Notes to the Original Purchaser, one or more of the aforesaid signatures required to appear on the Notes shall be by manual signature of one or more of the aforementioned officials.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution. For the initial delivery of the Notes, which will consist of one certificate in book-entry-only form as described in **Section 2.04(A)** hereof, the Notes shall be authenticated by the City Clerk.

Section 2.06 Payment of Costs of Notes. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Notes. The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act and for the interim financing of costs in connection with the Improvements. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated form are issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

Section 2.08 Registration, Transfer and Exchange of Notes. The Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Fiscal Agent

duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Fiscal Agent. Upon the surrender for transfer of any certificated Note at its office, the Fiscal Agent shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Fiscal Agent may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Fiscal Agent, the Fiscal Agent shall transfer or exchange any Note(s) for new Note(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Note(s) presented for transfer or exchange. All Notes presented for transfer or exchange shall be surrendered to the Fiscal Agent for cancellation. Prior to delivery of any new Note(s) to the transferee, the Fiscal Agent shall register the same in the Registration Books and shall authenticate each such new Note.

The City and the Fiscal Agent shall not be required to issue, register, transfer or exchange any Notes during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Notes. In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Note Registrar shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Note Registrar, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Note Registrar and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Note Registrar. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender thereof. The City and the Note Registrar may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

Section 2.10 Surrender and Cancellation of Notes. Whenever any Outstanding Note shall be delivered to the Note Registrar after full payment thereof or for replacement pursuant to

this Resolution, such Note shall be canceled and destroyed by the Note Registrar and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Note Registrar to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

Section 2.11 Execution and Delivery of Notes. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Note Registrar for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the “deemed final” Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City’s Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

ARTICLE III **REDEMPTION OF NOTES**

Section 3.01 Optional Redemption. At the option of the City, the Notes may be called for redemption and payment prior to their stated maturity, in whole or in part, on and after July 16, 2009 (the date being so set for redemption and payment being referred to as the “Redemption Date”). Notes called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), of 100% of the principal amount, plus accrued interest to the Redemption Date.

Section 3.02 Selection of Notes to be Redeemed. The Notes shall be redeemed only in face amounts of \$5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Notes at the time Outstanding, the Notes shall be redeemed in such equitable manner as the City shall determine, with Notes of less than a full maturity to be selected by lot in units of \$5,000.

In the case of a partial redemption of Notes by lot when Notes of denominations greater than \$5,000 are then Outstanding, then, for all purposes in connection with such redemption, each \$5,000 of face value of a Note shall be treated as though it were a separate Note in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of

face value represented by any Note has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Note to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the \$5,000 unit or units of face value of the Note called for redemption, and (ii) for exchange, without charge to the Owner, for a new Note or Notes of the aggregate principal amount of the unredeemed portion of the principal amount of such Note. If the Owner of any Note of a denomination greater than \$5,000 of which one or more, but not all, of the \$5,000 units of face value thereof has been selected for redemption shall fail to present such Note as aforesaid, the \$5,000 units of the face value of such Note which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unrepresented \$5,000 units of face value from and after the Redemption Date.

Section 3.03 Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than sixty (60) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Notes so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Note or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Notes so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Notes or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Notes selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Note is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Note or Notes in the amount of the unredeemed portion of such Note as provided by **Section 3.02** above. All Notes selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 Effect of Call for Redemption. Whenever any Note, or one or more of the \$5,000 units of face value represented by any Note, has been selected for redemption and payment as provided in this Article, all interest on such Note, or such one or more of the \$5,000

units of face value represented by any such Note, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV **FUNDS AND ACCOUNTS**

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the following designated funds and accounts:

- (A) Improvement Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 229; and
- (B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 229, to be created within the City's Capital Project Fund.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

ARTICLE V **APPLICATION OF NOTE PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS**

Section 5.01 Application of Note Proceeds. Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

- (A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes, and the portion of the Purchase Price which represents the premium, if any, paid on the Notes;
- (B) To the Redemption Fund, the sum of \$_____; and
- (C) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Notes, as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the issuance of the City's general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited

into the Principal and Interest Account. Any other sums of moneys which are designated for payment of the costs of the Notes, if any, shall likewise be deposited into the Principal and Interest Account.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Paying Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Paying Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Paying Agent in trust for and on behalf of the Owners of the Notes.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation note issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Redemption Fund. The portion of the proceeds of the Notes deposited into the Redemption Fund as provided by the preceding **Section 5.01** shall be used solely for the purpose of paying a portion of the cost of refunding the Original Notes issued for the Original Improvements.

Section 5.06 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.07 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements, and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.08 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.09 Substitution of Improvements. The City may elect to substitute or add other improvements paid with the proceeds of the Notes pursuant to this Section provided the

following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Notes to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvements and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI

DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in a bank(s) or Federal or state chartered savings and loan association(s) with offices located within Sedgwick County, Kansas, whose deposits are insured by Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank(s) or savings and loan association(s) holding such deposits in accordance with the laws of the State.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month.

ARTICLE VII

PROVISION FOR PAYMENT OF NOTES

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. It is further anticipated that a portion of the Notes will be payable from tax increment revenues generated from a certain tax increment district in the City.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said moneys.

ARTICLE VIII **DEFAULT AND REMEDIES**

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

- (A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;
- (B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect

or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX **AMENDMENTS**

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

- (A) Extend the Maturity Date of any Note;

- (B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;
- (C) Permit a preference or priority of any Note or Notes over any other Note or Notes; or
- (D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X **DEFEASANCE**

Section 10.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any moneys and Government Obligations which at any time shall be deposited with the Paying Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys

shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Paying Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01 Severability. In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.02 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to

carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 11.03 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.04 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas,
on January 13, 2009.

Carl Brewer, Mayor

(Seal)

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I
THE IMPROVEMENTS

EXHIBIT A

ADDITIONAL TERMS OF THE NOTES

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

“Note Ordinance” shall mean Ordinance No. _____ of the City, passed by the Governing Body on January 13, 2009, and authorizing and providing for the issuance of the Notes.

“Original Purchaser” means _____, _____, _____, the original purchaser of the Notes.

“Purchase Price” for the Notes shall be the par value of the Notes plus accrued interest, if any, to the date of delivery, plus a premium of \$_____.

Interest Rate. The Notes shall bear interest at the rate of _____% per annum.

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council

SUBJECT: General Obligation Bond and Note Sale

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Approve the bids.

Background: The City is offering for sale two series of general obligation temporary notes in an amount not to exceed \$62,075,000 (Series 226 and 229) and three series of general obligation bonds (Series 787, Series 796 and 796A) in an amount not to exceed \$49,040,000 for the purpose of providing interim and permanent financing for capital improvement projects of the City.

Analysis: The proceeds from the sale of the Series 226 and 229 Improvement and Renewal Notes will be used to provide interim financing for City-at-large, improvement district projects and improvements related to the Water Walk and the Douglas and Hillside Tax Increment Financing District. Due to the nature of the improvements for the Water Walk project and the Douglas and Hillside Tax Increment Financing District, the Series 229 Renewal and Improvement Notes are taxable under Federal law. The proceeds from the sale of the Series 787 Bonds will be used to permanently finance Storm Water Utility, City-at-large and public improvement projects. The proceeds from the sale of the Series 796 and 796A Bonds will be used to permanently finance neighborhood improvements located in special improvement districts.

Sealed bids will be accepted via facsimile or electronically through **PARITY** Electronic Bid Submission System until 10:00 a.m. CST in the Finance Conference Room, at which time the bids will be publicly opened. No bids will be accepted after the 10:00 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds and notes to the bidder whose proposed interest rates result in the lowest true interest rate.

Financial Considerations: The Series 226 and 229 Temporary Notes will mature November 19, 2009, are callable on and after July 16, 2009, and will be retired using cash, the proceeds of permanent financing bonds and/or renewal notes issued at that time. The Series 787 will mature serially over 15 years and will be callable in 2016 with a 1% call premium, in accordance with the City's debt management policy. The Series 796 Bonds will mature serially over fifteen years and will be paid from special assessments that are levied against benefited property. The Series 796A Bonds will mature serially over twenty years and will be paid from special assessments that are levied against benefited property. The Series 796 Bonds will be callable in 2016 and the Series 796A Bonds will be callable in 2019 with a 1% call premium, in accordance with the City's debt management policy.

Goal Impact: This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale.

Legal Considerations: Bond Counsel will review and approve the bids and the Law Department will approve the authorizing Ordinances and Resolutions which have been prepared by Bond Counsel.

Recommendations/Actions: It is recommended that the City Council: (1) direct the opening and reading of the bids; (2) award the sale of the Bonds and Temporary Notes; and (3) find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond and Note Ordinances on the date of their introduction, adopt the Bond and Note Ordinances and Resolutions and authorize the publication of the Bond and Note Ordinances.

Attachments: For each bond and note series: Request for Declaration of Emergency
 Resolution Authorizing Issuance of Bonds/Notes
 Ordinance Authorizing Issuance of Bonds/Notes

City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council

SUBJECT: ZON2008-00066 – Replace multiple Protective Overlays and a Restrictive Covenant to adjust permitted uses and development standards; generally located between Ridge Road and Summitlawn Drive, south of Maple Street. (District V)

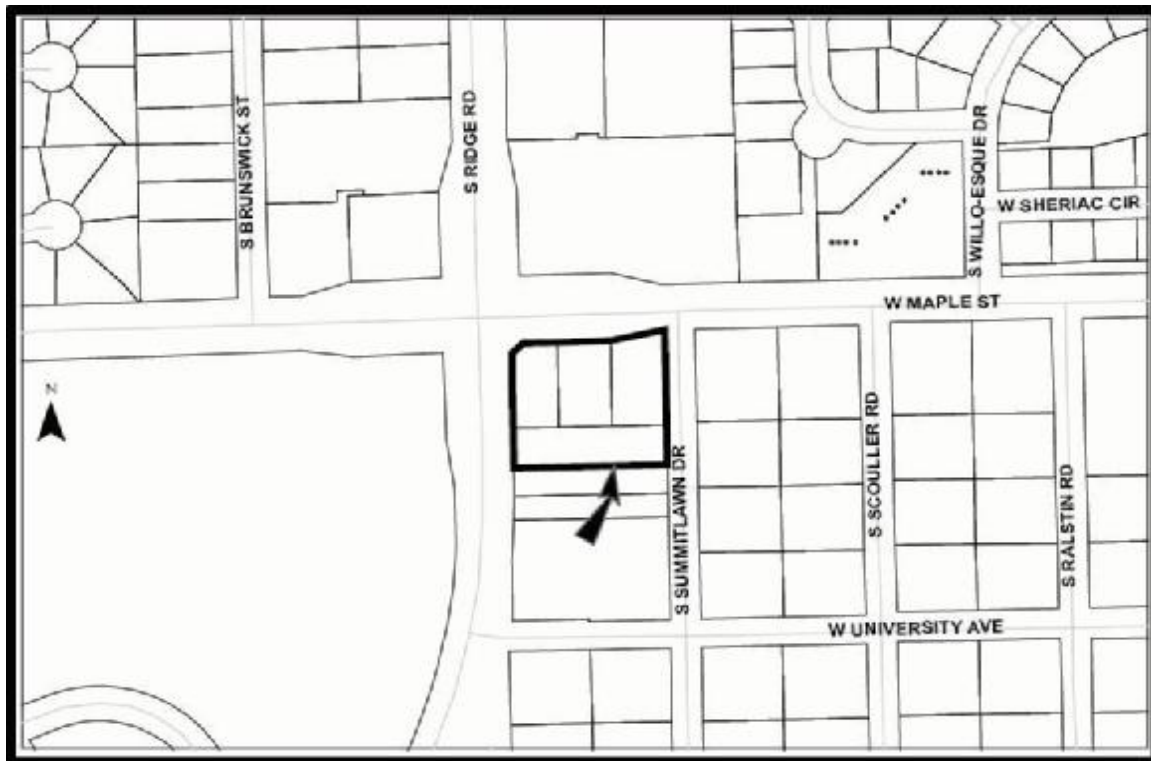
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve (11-1), subject to replatting within one year and the amended provisions of Protective Overlay #228.

MAPD Staff Recommendations: Approve, subject to replatting within one year and the amended provisions of Protective Overlay #228.

DAB Recommendations: Approve (8-0), subject to replatting within one year and the amended provisions of Protective Overlay #228. (DAB's recommendation is different from the MAPC.)



Background: The applicant's property is zoned LC Limited Commercial ("LC") subject to a Restrictive Covenant and three Protective Overlays ("PO") that, in general, restrict uses and require screening to protect residential uses located east of Summitlawn Drive. The multiple covenants and protective overlays were established individually over a period of time as each of the four lots was rezoned. Ownership of the property has now been consolidated, and the applicant proposes to replace Restrictive Covenant #30 and Protective Overlays (PO) 63, 69 and 70 with one document that establishes use and development standards for the larger unified site. The proposed PO would introduce outdoor speakers and sound amplification and allow drive-through restaurants, which are currently prohibited. Some other typical businesses that use these outdoor speakers are coffee shops, banks and drug stores. The proposed PO would also increase the maximum height of light poles, increase the maximum height of buildings and decrease the landscape buffer. Staff offered adjustments to this PO, which is reflected in what DAB V approved; see "Analysis." The subject properties are Lots 1 and 2, Block 1, King's Maple Street Addition; Lot 1, Block 1, King's Maple Street Second Addition; and Lot 1 (except the south 57.5 feet) of Block 1, King's Maple Street Third Addition. The current LC Limited Commercial ("LC") zoning would remain in place. The subject properties are currently undeveloped, with platted access onto Ridge Road (west) and Maple Street (north).

The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located to the east, across Summitlawn Drive, are zoned SF-5 Single-family Residential ("SF-5") and are developed with single-family residences, built mid-1950s to mid-1960s. This single-family residential subdivision is the oldest existing development in the area. The subject properties were originally platted as part of this single-family residential subdivision. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a big box Lowes (built 1998) building supply center. Properties located north of the site, (built 1983-1999) across Maple Street, are zoned LC, some with POs, and SF-5. The LC zoned sites are developed as strip retail, retail, a restaurant and a convenience store. The SF-5 zoned properties are developed as apartments with a CUP overlay. Properties located south, and abutting the subject properties, are not developed, with the exception of a Pizza Hut Bistro restaurant, which was built in 2005. The Pizza Hut site is the only developed LC property within the Maple - Summitlawn - University - Ridge Road block, which is where the subject properties are located. The Pizza Hut site has a PO that is similar to the DAB recommended PO and can be seen as the standard for redevelopment of this area, including the subject properties. The Maple - Summitlawn - University - Ridge Road block was rezoned from SF-5 to LC during the years 1992 to 2002.

The subject properties have been identified in the Comprehensive Plan as appropriate for "Local Commercial" uses. The close proximity of the subject properties to the established single-family neighborhood required any commercial uses to be developed so as to minimize any negative impact on that neighborhood. The current POs and restrictive covenant limits signage, lighting, noise, building height, requires a six foot high masonry wall, and a landscape buffer, outside the masonry wall, along the property lines. They also prohibited certain uses that are less compatible with the existing single-family residential development, including high-intensity, auto-oriented commercial uses. Because the subject properties were zoned essential two single-family lots at a time, it was reasonable to anticipate that some time in the future, the provisions of the POs and the restrictive covenant might be amended and the properties replatted to provide a larger, more coherent, unified site.

Analysis: DAB V considered this request at their December 1, 2008, meeting. Some citizens were concerned about access from the site onto Summitlawn Drive, landscaping and screening. The agent discussed with the DAB the agent's proposed adjustments, which would: reduce the landscape buffer from 20 feet to 10 feet, allow building heights to be 35 feet, but still only one-story, and allow lights to be 20 feet tall rather than 14 feet tall. The DAB approved (9-0), the following PO, subject to platting within one year:

- A. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light

away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 14 feet. Light poles shall not be located within any setbacks.

- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thrus and order boards.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6-foot high masonry wall shall be constructed parallel to the east property line where property in a residential zoning district is across the street from the subject property. The masonry wall shall be setback from the property 20 feet, and a 20-foot deep landscaped street yard shall be provided adjacent to the entire length of the east property line on the east side of the masonry wall.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.

The MAPC considered this request at their December 4, 2008, meeting. A citizen spoke at the MAPC meeting and expressed concerns about traffic from the site onto Summitlawn and about the need for landscaping along Summitlawn. The agent discussed with the MAPC their proposed adjustments to the DAB's PO. The agent's adjustments would reduce the landscape buffer from 20 feet to 10 feet, allow buildings to be 35 feet tall instead of 25 feet, but still only one-story and allow lights to be 20 feet tall rather than 14 feet tall. The MAPC voted to approve (11-1) the agent's request, subject to replatting within a year, and they increased the landscaping along Summitlawn to 1½ times more than what was required by the Landscape Ordinance.

The MAPC's conditions of approval for PO #228 are as follows:

- A. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 20 feet. Light poles shall not be located within any setbacks.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thrus and order boards.
- D. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- E. A 6 to 8-foot high masonry wall shall be constructed parallel to the east property line. The masonry wall shall be setback from the east property line 10 feet. A 10-foot landscaped Summitlawn Drive street side yard shall be provided adjacent to the entire length of the east property line, located on the east side (outside) of the masonry wall.
- F. Landscaping shall be 1 ½ times more than required by the Landscape Ordinance.
- G. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.

No protests were received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC, subject to platting within one year and the provisions of the Protective Overlay, PO #228, withhold publication of the ordinance until the plat is recorded; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

ORDINANCE NO. 48-169

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2008-00066

Replacing Restrictive Covenant 30, Protective Overlays 63, 69, and 70 with the provisions of Protective Overlay #228 on LC Limited Commercial ("LC") zoned property described as:

Lots 1 and 2, Block 1, King's Maple Street Addition, Lot 1, Block 1, King's Maple Street Second Addition, and Lot 1 (except the south 57.5 feet), Block 1, King's Maple Street Third Addition, Wichita, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive, south of Maple Street.

SUBJECT TO PLATTING WITHIN A YEAR OF APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #228:

- G. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district.
- H. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 20 feet. Light poles shall not be located within any setbacks.
- I. Outdoor speakers and sound amplification systems shall not be permitted except for drive-thru and order boards.
- J. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- K. A 6 to 8-foot high masonry wall shall be constructed parallel to the east property line. The masonry wall shall be setback from the east property line 10 feet. A 10-foot landscaped Summitlawn Drive street side yard shall be provided adjacent to the entire length of the east property line, located on the east side (outside) of the masonry wall. Landscaping shall be 1 ½ times more than required by the Landscape Ordinance.
- L. The following uses shall not be permitted: adult entertainment establishment;

group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, January 27, 2009.

Carl Brewer - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney



INTEROFFICE MEMORANDUM

TO: Mayor and Wichita City Council Members
FROM: Megan Buckmaster, District V Neighborhood Assistant
SUBJECT: ZON2008-00066
DATE: December 23, 2008

On Monday, December 01, 2008, the *District Advisory Board (DAB) for Council District V* considered A request to replace multiple Protective Overlays and a Restrictive Covenant to adjust uses allowed and development standards located between Ridge Road and Summitlawn Drive, south of Maple Street. The proposed use is to allow additional uses and change development standards.

DAB V had no concerns and look forward to possible development on this long standing empty property in District V. The request was approved with a unanimous vote of 8-0-to move forward to City Council for vote per planning staff recommendation.

EXCERPT OF DECEMBER 4, 2008 MAPC HEARING

Case No.: ZON2008-66 – Venture Seven Development, LLC (applicant), KE Miller Engineering, PA, c/o Kirk Miller Request City Amendment to multiple Protective Overlays and a Restrictive Covenant, on properties zoned LC Limited Commercial on property described as:

Lots 1 and 2, Block 1, King's Maple Street Addition, and Lot 1, Block 1, King's Maple Street 2nd Addition, and Lot 1, except the South 57.5 feet thereof Block 1, King's Maple Street 3rd Addition, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive and south of Maple Street.

BACKGROUND: The applicant proposes to replace Restrictive Covenant #30 and Protective Overlays (PO) #s 63, 69 and 70 on the subject properties. The current LC Limited Commercial (“LC”) zoning would remain in place. The applicant also proposes to replat the subject properties; see case history. The subject properties are currently undeveloped, with platted access onto Ridge Road (west) and Maple Street (north).

The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located to the east, across Summitlawn Drive, are zoned SF-5 Single-family Residential (“SF-5”), and are developed with single-family residences; built mid-1950s to mid-1960s. This single-family residential subdivision is the oldest existing development in the area. The subject properties were originally platted as part of this single-family residential subdivision; see case history. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a big box Lowes (built 1998) building supply center. Properties located north of the site, (built 1983-1999) across Maple Street, are zoned LC, some with POs, and SF-5. The LC zoned sites are developed as strip retail, retail, a restaurant and a convenience store. The SF-5 zoned properties are developed as apartments with a CUP overlay. Properties located south and abutting the subject properties are not developed, with the exception of a Pizza Hut Bistro restaurant, which was built in 2005. The Pizza Hut site is the only developed LC property within the Maple - Summitlawn – University – Ridge Streets’ block, which is where the subject properties are located. The Pizza Hut site has a PO that is similar to the subject properties’ POs and restrictive covenant, and can be seen as the standard for redevelopment of this area, including the subject properties. The Maple - Summitlawn – University – Ridge block was rezoning SF-5 to LC during the years 1992- 2002.

The subject properties have been identified in the Comprehensive Plan as appropriate for “Local Commercial” uses. The close proximity of the subject properties to the established single-family neighborhood required any commercial uses to be developed so as to minimize any negative impact on that neighborhood. The current POs and restrictive covenant limits signage, lighting, noise, building height, requires a six foot high masonry wall, and a landscape buffer, outside the masonry wall, along the property lines. They also prohibited certain uses that are less compatible with the existing single-family residential development, including high-intensity, auto-oriented commercial uses. Because the subject properties were zoned essential two single-family lots at a time, it was reasonable to anticipate that some time in the future, the provisions of the POs and the restrictive covenant might be amended and the properties replatted to provide a larger, more coherent, unified site.

The applicant proposes to replace the three existing POs and restrictive covenant. The proposed PO would provide the advantage of having one document establishing the uses and developing standards for a larger, replatted site. The proposed PO would introduce outdoor speakers and sound amplification for drive-throughs and order boards. Some typical businesses that use these outdoor speakers are fast food

restaurants (currently prohibited), coffee shops, banks, and drug stores. The proposed PO would also increase the maximum height of light poles from 14 feet to 30 feet and increase the maximum height of buildings from 25 feet to 35 feet, but the one-story height would remain in effect. The proposed PO as written would seem to have the landscaping in the Summitlawn Drive right-of-way, thus eliminating the current on site landscape buffer, with landscaping planted between the masonry wall and the subject properties' Summitlawn Drive frontage.

CASE HISTORY: The subject properties were originally platted as part of the single-family residential Westerlea Village subdivision, recorded August 11, 1949. They were subsequently rezoned to what is now LC zoning, subject to replatting and the provisions of a restrictive covenant and three (3) protective overlays. The subject properties are: (a) Lots 1 and 2, Block 1, King's Maple Street Addition, recorded 07-27-1994, Z-3074, Restrictive Covenant #30; (b) Lot 1, Block 1, King's Maple Street Second Addition, recorded 02-05-2004, Z-3359, Protective Overlay #69, and; (c) Lot 1 (except the south 57.5 feet), Block 1, King's Maple Street Third Addition, recorded 02-05-2004, Z-3350, Protective Overlay #63 and Z-3360, Protective Overlay #70.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, SF-5	Strip retail, retail, apartments
SOUTH:	LC	Undeveloped lot, restaurant
EAST:	SF-5	Single family residences
WEST:	LC	Big box building supply center, retail

PUBLIC SERVICES: The subject properties have frontage onto Ridge Road and Maple Street. Both Ridge Road and Maple Street are four-lane principal arterials, with turn lanes, and raised, full curbed median strips. Summitlawn Drive, which abuts the east side of two of the subject properties, is a two-lane, paved residential street. The 2030 Transportation Plan indicates no change to the status of any of these roads. Available traffic counts in the area show approximately 23,700 average trips per day on this section of Ridge Road and Maple Street. All utilities are available to the subject sites.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area as appropriate for "Local Commercial" development. The "Local Commercial" category includes commercial, office and personal service uses that do not have a regional draw. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject properties are undeveloped, but currently have a restrictive covenant and POs that were intended to minimize negative impact on the established single-family residential neighborhood. The current POs and restrictive covenant limits signage, lighting, noise, building height, requires a six foot high masonry wall, and a landscape buffer located outside the masonry wall, along the property lines. They also prohibited certain uses that are less compatible with the existing single-family residential development, including high-intensity, auto-oriented commercial uses. Because the subject properties were essentially rezoned two single-family lots at a time, it was reasonable to anticipate that some time in the future, the provisions of the POs and the restrictive covenant might be amended and the properties replatted to provide a larger, more coherent, unified site.

The applicant proposes to replace the three existing POs and restrictive covenant with a revised PO. The proposed PO would provide the advantage of having one document establishing the uses and developing standards for a larger, replatted site. The proposed PO would allow outdoor speakers and sound amplification for drive-throughs and order boards. Some typical businesses that use these outdoor speakers are fast food restaurants (currently prohibited), coffee shops, banks, and drug stores. The

proposed PO would also increase the maximum height of light poles from 14 feet to 30 feet and increase the maximum height of buildings from 25 feet to 35 feet, but the one-story standard would remain in effect. The proposed PO as written seems to have landscaping located in the Summitlawn Drive right-of-way, thus eliminating the current on-site landscape buffer, with landscaping planted between the masonry wall and the subject properties' Summitlawn Drive frontage. The combination of the loss of the original landscape buffer coupled with the introduction of drive-throughs and order boards, allowing fast food restaurants, allowing 30-foot tall light poles and the increase to a 35-foot maximum building height does not meet the intent of the Commercial Locational Guidelines of the Comprehensive Plan for commercial uses to have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Pizza Hut site has a PO that is similar to the subject properties' POs and restrictive covenant and can be seen as the standard for redevelopment of this area, including the subject properties.

Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially-generated traffic should not feed directly onto local residential streets. The subject sites have been platted with complete access control along their Summitlawn Drive frontage and the proposed replatting of the subject properties would need to keep that restriction.

RECOMMENDATION: Staff cannot recommend all the provisions of the proposed PO. The proposed PO does not meet the intent of the Commercial Locational Guidelines of the Comprehensive Plan to have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. However, the impact of allowing fast food restaurants and their needed outdoor speakers and sound amplification for drive-throughs and order boards could be minimized with the retention of some of the provisions of the original POs. Retaining the maximum height of the light poles, including their base to 14 feet; keeping the maximum height of buildings to 25 feet and no more than one story; and providing a 20-foot deep landscaped street yard adjacent to the entire length of the east property on the east side of the masonry wall, would minimize the negative impact on the existing single-family residential development. These recommended provisions would also allow coffee shops, banks and drugstores to use outdoor speakers and sound amplification for drive-throughs and order boards. Based upon information available prior to the public hearings, planning staff recommends that the following provisions of a Protective Overlay be APPROVED, subject to replatting within one year:

- A. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 14 feet. Light poles shall not be located within any setbacks.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-throughs and order boards.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6-foot high masonry wall shall be constructed parallel to the east property line where property in a residential zoning district is across the street from the subject property. The masonry wall shall be setback from the property 20 feet, and a 20-foot deep landscaped street yard shall be provided adjacent to the entire length of the east property line on the east side of the masonry wall.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located east of the subject properties, across Summitlawn Drive, are zoned SF-5 Single-family Residential (“SF-5”) and are developed with single-family residences; built mid-1950s to mid-1960s. This single-family residential subdivision is the oldest existing development in the area. The subject properties were originally platted as part of this single-family residential subdivision. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a big box Lowes (built 1998) building supply center. Properties located north of the site, (built 1983-1999) across Maple Street, are zoned LC, some with POs, and SF-5. The LC zoned sites are developed as strip retail, retail, a restaurant and a convenience store. The SF-5 zoned properties are developed as apartments with a CUP overlay. The properties located south and abutting the subject properties are zoned LC and are undeveloped, with the exception of a Pizza Hut Bistro restaurant, which was built in 2005. The Pizza Hut site is the only developed LC property within the Maple - Summitlawn – University – Ridge Streets’ block, which is where the subject properties are located. The Pizza Hut site has a PO that is similar to the subject properties’ POs and restrictive covenant. The Pizza Hut site can be seen as the standard for redevelopment of this area, including the subject properties. The Maple - Summitlawn – University – Ridge block was rezoning SF-5 to LC during the years 1992- 2002. All of these properties were essentially rezoned two single-family lots at a time and then replatted. All of them have POs or restrictive covenants that have more in common than not.
2. The suitability of the subject property for the uses to which it has been restricted: The subject properties could be developed as currently zoned with the provisions of their Protective Overlays or restrictive covenants. But, the subject properties would be better served by combining them through the replatting process to make a larger site and then have one Protective Overlay over the one, larger site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects should be minimized by the recommended provisions of the Protective Overlay, which includes the limits on signage, limits on uses, a maximum height of 14 feet, including their base, for light poles, a maximum height of buildings to 25 feet and no more than one story and providing a 20-foot deep landscaped street yard adjacent to the entire length of the east property on the east side of the masonry wall.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed PO, did not meet the intent of the Commercial Locational Guidelines of the Comprehensive Plan to have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. However, the impact of allowing fast food restaurants and their needed outdoor speakers and sound amplification for drive-throughs and order boards could be minimized with the retention of some of the provisions of the original POs. Retaining the maximum height of the light poles, including their base, to 14 feet; keeping the maximum height of buildings to 25 feet and no more than one story, and; providing a 20-foot deep landscaped street yard adjacent to the entire length of the east property on the east side of the masonry wall, would minimize the negative impact on the existing single-family residential development. These recommended provisions would also allow coffee shops, banks, and drugstores to use outdoor speakers and sound amplification for drive-throughs and order boards.

5. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized through the replatting process, which should limit access to the subject site to an arterial street and through cross lot access. Other community facilities should not be adversely impacted.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said DAB V recommended approval per staff recommendation. He said several people expressed concerns at the DAB meeting primarily about traffic onto Summitlawn. He said ingress/egress from the property onto Summitlawn would not be permitted as the property is platted.

KIRK MILLER, AGENT FOR THE APPLICANT stated that during the platting process, it was approved that there would be no access onto Summitlawn from the site. He said there would be two openings, one on Maple Street and one on Ridge Road. He said there had been issues regarding the landscaping along Summitlawn, as they had originally presented it, which had it located in the right-of-way. They had subsequently given another proposal that provided a 10-foot wide landscaping buffer outside the masonry wall, both which were now on the applicant's property. He mentioned that the lot is smaller than the Pizza Hut lot because of the 15 foot right-of-way dedication along Ridge Road and because of this they could not match the 20-foot wide landscape buffer along Summitlawn as provided by Pizza Hut. He mentioned the proposed protective overlays and stated that they would like to request 20 foot light poles, which seems to be the standard since this is at the intersection of two arterial streets and it would make it easier to market the property. In addition, he said they would like to increase the 25 foot building height to 35 feet to accommodate architectural features, even though the building will remain one story.

HARRIET C. PRICHARD, 310 SUMMITLAWN said she lives at the corner of Maple and Summitlawn directly east and adjacent to the proposed development. She said she understands that the City is committed to making this a commercial area and she won't argue with that; however, she said she will argue for a "green belt" on Summitlawn that protects the Westerlea Village. She said they have pollution all around and overhead with airplanes and she sees no relief from the pollution with this commercial area. She said she would like to advocate that many trees be planted in the landscaped strip along Summitlawn adjacent to the residential development. She said there needs to be more advocates for "green" in Wichita because we are paving over more and more of the area for commercial development. Secondly, she asked where the entrances to the property will be located since a fast food restaurant was one of the development possibilities and she was concerned that cars will come down Summitlawn to get into the property.

MILLER said there will be no entrances/exits onto Summitlawn and added that there will be a 10-foot landscaping strip and wall along the easterly side of the property.

Responding to **HILLMAN's** question concerning the possible planting of trees, **MILLER** said they are required to plant trees along the landscaped strip per the Landscape Ordinance.

MITCHELL clarified the requested changes were; light poles from 14 feet to 20 feet, including the base; decreasing the 20-foot landscape buffer to a 10-foot landscape buffer; and increasing the building height from 25 feet to 35 feet, but remaining one story.

HENTZEN asked about the location of the wall and if it was the same distance off Summitlawn as the Pizza Hut.

MILLER responded that it will be closer towards Summitlawn, not an extension of the wall that is currently there and added that the current protective overlay does not require a wall but a berm.

FOSTER suggested increasing the landscaping to 1 ½ times to what was required by code.

MILLER commented that he thought they could probably do that.

MOTION: To approve subject to staff recommendation with the exceptions to items b., d., and e. that the applicant agreed to, plus 1½ times the landscape standard along Summitlawn.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (11-1).

DENNIS – No.

DENNIS said he can't support the motion due to the light pollution to the owners directly to the east.

LONGNECKER mentioned that lights can't be located in setbacks.

City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council Members

SUBJECT: SUB 2007-05 -- Plat of Mapleridge Addition located on the southeast corner of Maple and Ridge Road. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

Background: This site, consisting of one lot on 1.73 acres, is a replat of King's Maple Addition, King's Maple 2nd Addition and King's Maple 3rd Addition. The site is zoned LC Limited Commercial and is located within Wichita's city limits. A Protective Overlay (PO #228) addressing off-site signs, lighting, building height, uses, and screening has been approved for this site. A Notice of Protective Overlay has been submitted identifying the approved Protective Overlay and its special conditions for development on this property.

Analysis: Water and sewer services are available for the site. An Avigational Easement and Restrictive Covenant have been submitted to assure that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

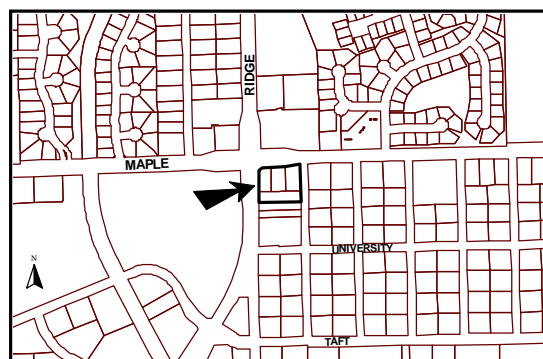
The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions.

Financial Consideration: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Notice of Protective Overlay, Avigational Easement and Restrictive Covenant will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat and authorize the necessary signatures.



**NOTICE OF PROTECTIVE OVERLAY
MAPLERIDGE ADDITION**

THIS NOTICE made this 23RD day of December, 2008, by George E. Laham, II,
Manager, Venture Seven L.L.C., hereinafter called "Declarant,"

WITNESSETH

WHEREAS, Declarant is the owner of the following-described property:

MAPLERIDGE ADDITION
Lot 1, Block 1

and

WHEREAS, Declarant is desirous to file notice that a protective overlay approved by the
City of Wichita is on file with the Wichita-Sedgwick County Metropolitan Area Planning Department,
located on the 10th Floor, City Hall, Wichita, Kansas, (316) 268-4421.


NOW, THEREFORE, the Declarant gives notice that the approved protective overlay of
Mapleridge Addition has placed restrictions on the use and requirements on the development of the
above-described real property. The protective overlay shall be binding on the owners, their heirs, or
successors or assigns and is a document running with the land and is binding on all successors in title to
Lot 1, Block 1, Mapleridge Addition.

EXECUTED the day and year first written above.

By:



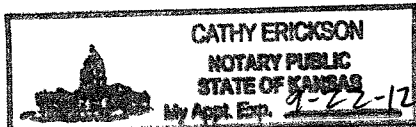
George E. Laham, II, Manager
Venture Seven L.L.C.

 2007-05

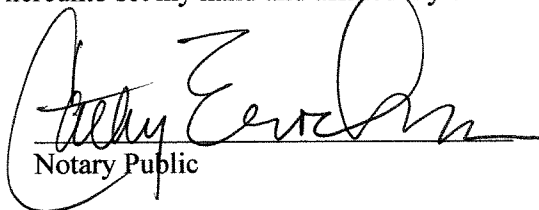
STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 23RD day of December, 2008, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came George E. Laham, II, Manager, Venture Seven L.L.C., personally known to me to be the same persons who executed the within instruments of writing and such persons duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above-written.



(My Commission Expires: _____)



Notary Public

AVIGATIONAL EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, this 23rd day of December, 2008, by George E. Laham, II, on behalf of Venture Seven L.L.C., and, GRANTORS hereof, does hereby grant a permanent Avigational Easement to the public authority authorized by Law to own and operate public-owned airports in Sedgwick County, Kansas, for the use of "Navigable Airspace" as defined by the Federal Aviation Act of 1958, over all the following described real estate, to-wit:

MAPLERIDGE ADDITION
An Addition to Wichita, Sedgwick County, Kansas

By virtue of this easement, the grantor, for and on behalf of himself and all successors in interest to any and all of the real property above described, waives as to the public authority only any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the "Navigable Airspace" granted herein. This easement does not grant or convey any surface use rights, nor is it to be constructed to grant any right to private persons or corporations.

"Navigable Airspace" means air space above the minimum altitudes of flight prescribed by regulations issued under the Federal Aviation Act of 1958, Section 101 (24) 49 U.S. Code 1301, and shall include air space needed to insure safety in take-off and landing of aircraft.

The undersigned do hereby adopt the easement that is to run with the property and shall be binding on all parties, heirs, successors, assigns, and all persons claiming interest therein.

IN TESTIMONY WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

By: _____

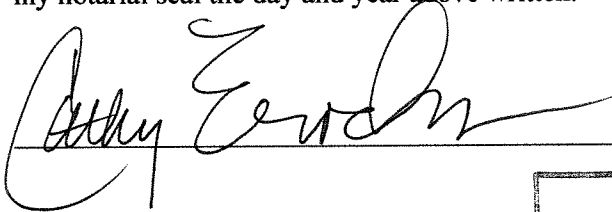
George E. Laham, II, Manager
Venture Seven L.L.C.

John 2007-05

State of Kansas)

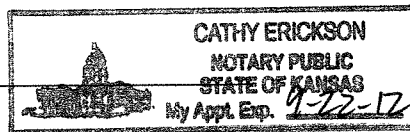
County of Sedgwick)

Be it remembered that on this 23RD day of December, 2008, before me a Notary Public in and for said State and County, came George E. Laham, II, Manager, Venture Seven L.L.C., to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.



_____, Notary Public

My Appointment Expires: _____



Covenant

This covenant, executed this 23RD day of December, 2008.

WITNESSETH:

WHEREAS, the undersigned are in the process of platting that certain real property to be known as Mapleridge Addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the Wichita-Sedgwick County Metropolitan Commission providing for minimizing noise pollution in any new structures.

NOW, THEREFORE, the undersigned do hereby subject Mapleridge Addition to Wichita, Sedgwick County, Kansas, to the following covenants:

1. Any building constructed on the premises shall be so designed and constructed as to minimize noise pollution in any such structure, giving due consideration to the use for which such structure is designed and built. This covenant is for the benefit of said property and shall run with the land and inure to the benefit of and pass with said property and shall apply to and bind the successors in interest and any owner thereof.

IN TESTIMONY WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

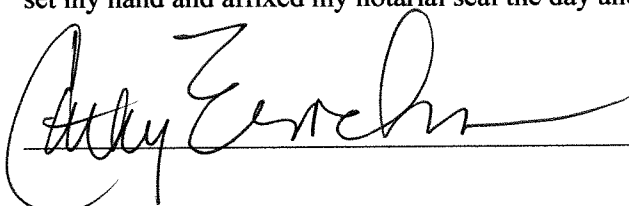
By: _____

George E. Laham, II, Manager
Venture Seven L.L.C.

State of Kansas)

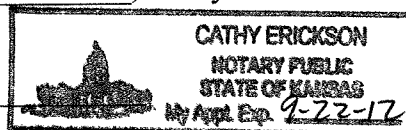
County of Sedgwick)

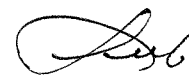
Be it remembered that on this 23RD day of December, 2008, before me a Notary Public in and for said State and County, came George E. Laham, II, Manager, Venture Seven L.L.C., to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.



_____, Notary Public

My Appointment Expires: _____



 2007-05

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council

SUBJECT: VAC2008-00034 Request to vacate a portion of a platted drainage easement; generally located midway between Pawnee Avenue and Harry Street, west of West Street. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting the vacation of what can be generally described as the north 70-foot wide portion of the platted 170-foot wide drainage easement located along the south lot line of Lot 1, Casco Addition. The GIS map shows a sewer line in the east portion of the subject platted easement, but it is protected by a sanitary sewer easement dedicated by separate instrument; Film 707, Page 640. The applicant has contacted the Storm Water Engineer who is in agreement with vacating an undefined portion of the subject easement, contingent on plans submitted to Storm Water for review and approval. No sewer, water or franchised utilities will be impacted by the proposed vacation. The Casco Addition was recorded with the Register of Deeds on October 16, 1985.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (8-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

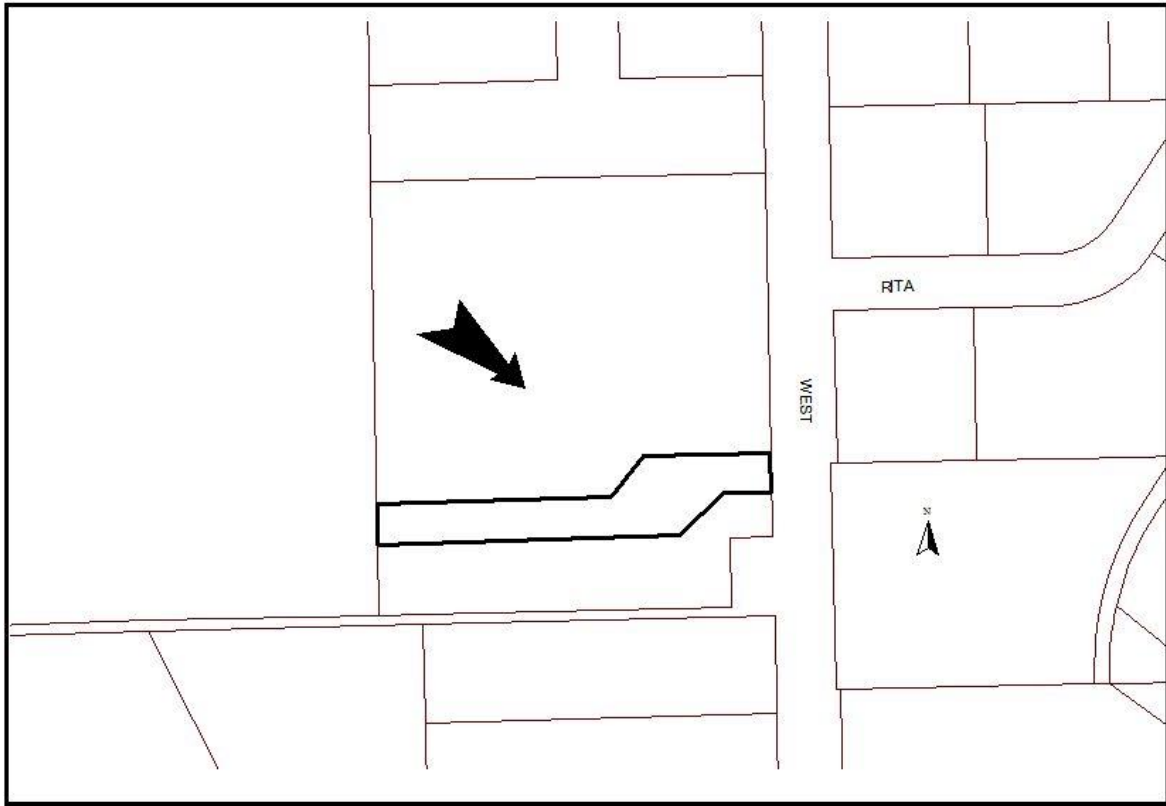
Financial Considerations: Certification of petition for special assessments for the construction of storm water improvements.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order, a temporary easement and a certification of petition will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: A temporary easement and a certification of petition.



**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council

SUBJECT: VAC2008-00036 - Request to vacate street right-of-way, dedicated by separate instrument; generally located west of Arkansas, south of 35th Street North. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting the vacation of the undeveloped 10-foot wide by 250-foot long public street right-of-way (ROW), which was dedicated by separate instrument; Film 175/Page 1696, recorded on June 6, 1991, Wichita, Sedgwick County, Kansas. The applicant is the party that dedicated the described ROW. The applicant owns all but one of the abutting properties, and that other property owner has signed the petition to vacate the described ROW. No one will be denied access with the vacation request. There will be no disruption or extension of existing roads. There are no utilities, water or sewer lines within the proposed vacated ROW. All abutting properties were created by selling off portions of Lot 16, Walnut Grove Addition, which was recorded with the Register of Deeds on December 20, 1912.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

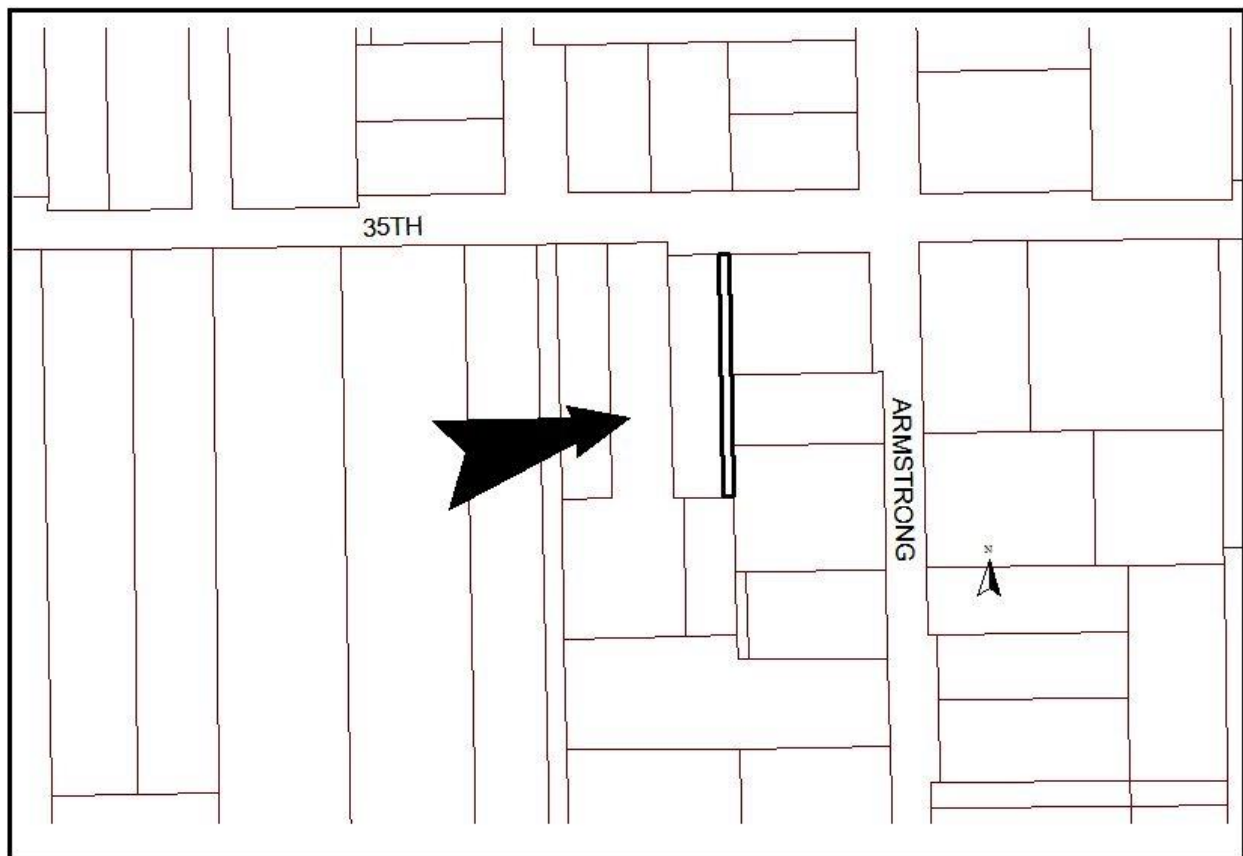
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.



**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council

SUBJECT: VAC2008-00037 Request to vacate a platted easement, generally located midway between I-35 and 159th Street East, north of Central Avenue on the northeast side of Belle Terra Circle. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting the vacation of the platted utility easement that runs parallel to the common lot lines of Lots 7 & 8, Block 1, Terradyne West 2nd Addition. There are no utilities, manholes, water or sewer lines in the platted easement. The GIS map shows the site to be within a FEMA flood zone, but the easement is not used for drainage. The Terradyne West 2nd Addition was recorded with the Register of Deeds on June 16, 2008.

Analysis: The Metropolitan Area Planning Commission (MAPC) voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

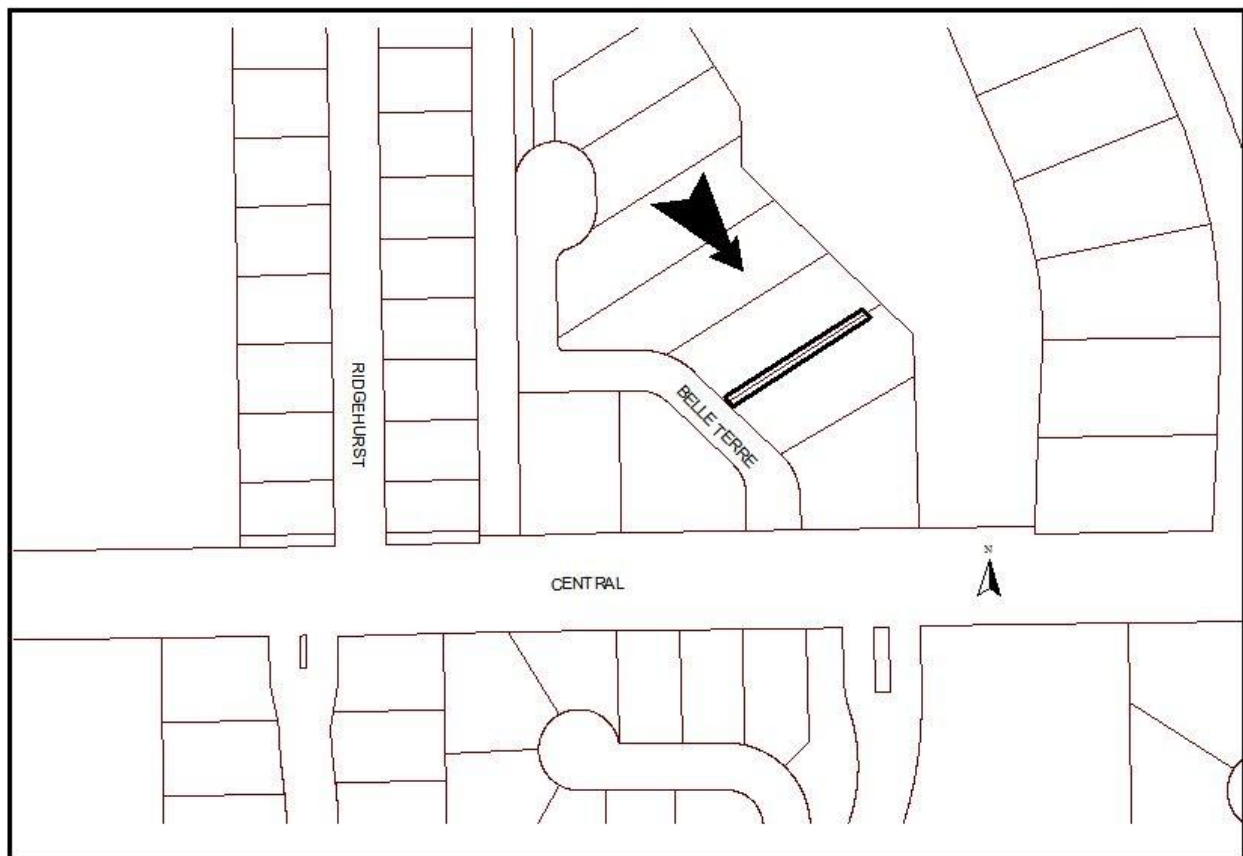
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.



City of Wichita City
Council Meeting
January 13, 2008

TO: Mayor and City Council Members

SUBJECT: A09-01 Request by James K. Snook, of James K. Snook Trust Agreement, to annex lands generally located south of MacArthur Road, between Hoover Road and West Street South. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

Background: The City has received a request to annex 80.47 acres of land generally located south of MacArthur Road, between Hoover Road and West Street South. The annexation area abuts the City of Wichita to the east of the property. On May 1, 2008, the Subdivision Committee of the Metropolitan Area Planning Commission approved the final plat of the Broad Street Industrial Park Addition, subject to staff comments. It is anticipated that 420,000 square feet of industrial uses will be developed within the next five years.

Analysis:
Land Use and Zoning: The proposed annexation consists of 80.47 acres zoned “LI” Limited Industrial. The property also has been approved for two Conditional Use Permits that allow the extraction of soil from the site, and the property is partially used for that purpose. Annexation will not change the zoning of the property. The properties to the north, south, and east of the proposed annexation are zoned “LI” Limited Industrial, and are partially developed with various industrial uses. Directly west of the proposed annexation lies the “Big Ditch.”

Public Services: Sanitary sewer is available to serve the subject property from a 8-inch main that extends into the north portion of the property. The applicant has been required by the conditions of the plat to pay a fee in lieu of assessment in order to connect to sanitary sewer. The nearest connections to water are a 12-inch main in MacArthur and a 16-inch main in West Street. The applicant has been required by the conditions of the plat to submit a petition to extend water service to the site.

Street System: The subject property currently has access to Broad Street, an unpaved local street that intersects with MacArthur Road two blocks north of the subject property. West Street intersects with MacArthur Road one block east of the subject property. The Sedgwick County Capital Improvement Program 2008-2012 has scheduled West Street, east of the subject property, to be widened to four lanes between 47th Street South to just south of I-235. The City of Wichita Capital Improvement Program (CIP) 2007-2016 and the 2008 Transportation Improvement Program do not call for street improvements near the proposed annexation site.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Wichita will provide fire protection from Fire Station No. 12, located at 3443 South Meridian, with a six (6) to seven (7) minute response time. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N Elder.

Parks: South View Park, a 20-acre park, is located approximately 1 1/2 miles to the east of the subject property and contains two tennis courts, six soccer fields, a children's play area, a restroom and two parking areas. South

Lakes Park, a 250-acre park, is located approximately 2 miles southeast of the subject property and contains sixteen soccer fields, eight softball fields, one football field, three concession stands, four fishing areas and two parking areas. Osage Park, a 20-acre park, is located 2 miles to the northeast of the subject property and contains a recreation center, a small children's swimming/wading pool, two softball diamonds, two tennis courts, three horseshoe court, a basketball court, a children's play area, a restroom and two parking areas. Wildwood Park, a 10-acre park, is located 2 ½ miles to the northeast of the subject property and contains an open shelter, two horseshoe courts, a children's play area and a wood-chip walking path. According to the 1996 Parks and Open Space Master Plan, a potential pathway has been identified that would run along the “Big Ditch” 53rd Street, directly west of the subject property.

School District: The annexation property is part of the Unified School District 261 (Haysville School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area, as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is \$561,950 with a total assessed value of \$132,618. Using the current City levy (\$31.979/\$1000 x assessed valuation), this roughly yields \$4,241 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating that approximately 420,000 SF of industrial uses will be developed within the next five years. The total appraised value of this industrial development after completion is estimated at \$43,600,000. Assuming the current City levy remains about the same, this would roughly yield a total of \$348,571 in City annual tax revenues.

Goal Impact: Approving the annexation request would impact Wichita's goal to ensure efficient infrastructure, for annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, *et seq.*

Recommendations/Actions: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

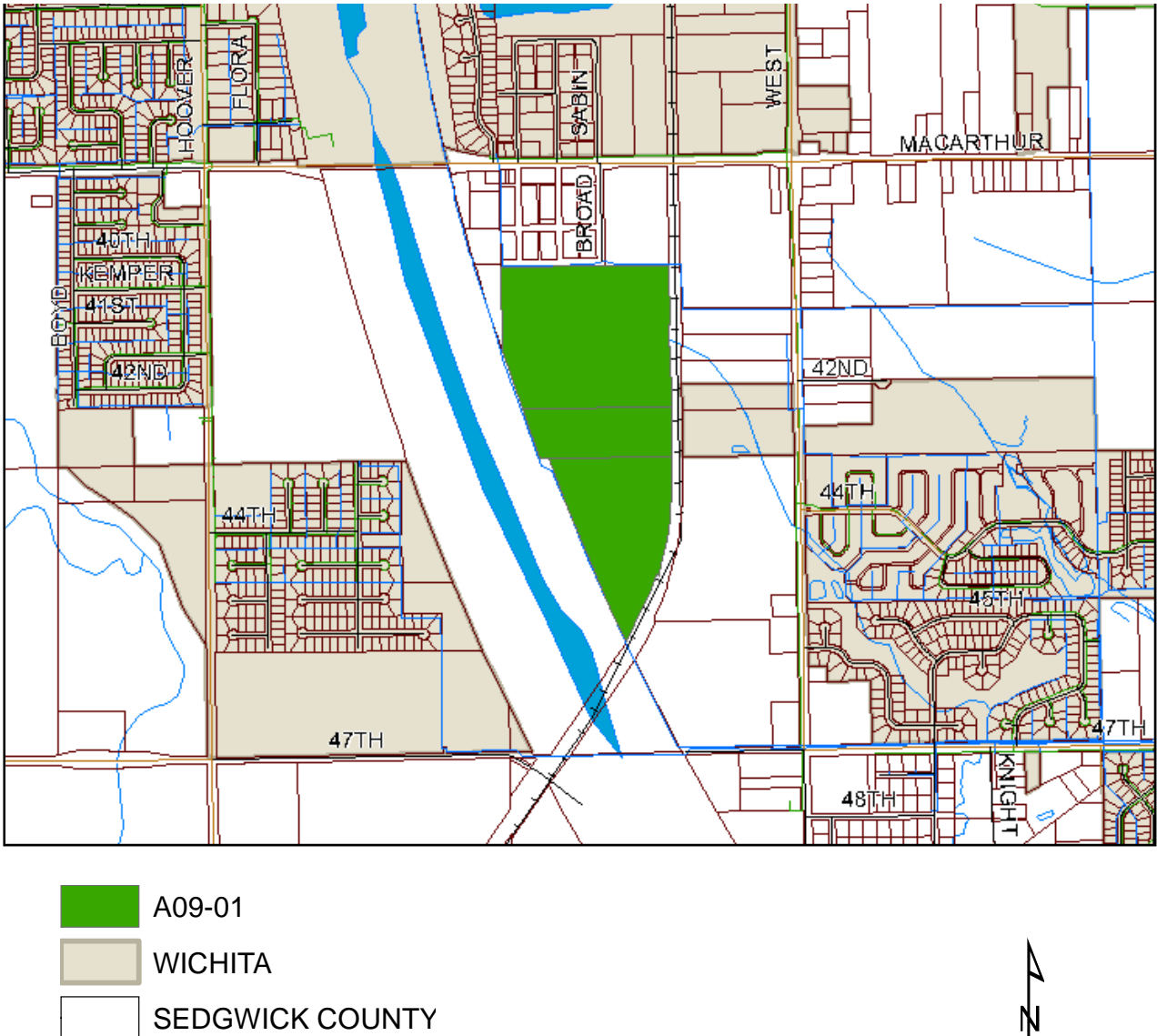
An ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto.

General Location:

Land generally located south of MacArthur Road, between Hoover Road and West Street South. (District IV)

Address:		Reason(s) for Annexation:	
80.47	Area in Acres	<input checked="" type="checkbox"/> X	Request
0	Existing population (est.)	<input type="checkbox"/>	Unilateral
0	Existing dwelling units	<input type="checkbox"/>	Island
1	Existing industrial/commercial units	<input type="checkbox"/>	Other:

Existing zoning:	"LI" Limited Industrial
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OCA150005 BID

PUBLISHED IN THE WICHITA EAGLE ON _____

ORDINANCE NO. 48-169

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A09-01)

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District IV respectively:

Lot 1, Block 1, The Broad Street Addition to Sedgwick County, Kansas. together with a tract of land in the NE ¼ of Sec. 14, Twp. 28-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, described as follows: that part of the NE1/4 of said Sec. 14 lying west of the Missouri Pacific Railroad right-of-way (as established in Deed Book 964, Page 39 and Deed Book 1230, Page 340), except the north 933.00 feet thereof; except that part platted as The Broad Street Addition; and except that part taken for the Wichita-Valley Center Floodway Condemned by Case A-30410, and together with that part of the W1/2 of the SE1/4 of Sec. 14, Twp. 28-S, R-1-W of the 6th P.M., Sedgwick County, Kansas lying east of the Wichita-Valley Center Flood Control right-of-way per Condemnation Case A-30410 and west of the Missouri Pacific Railroad right-of-way as established by the deed filed in Book 1230, Page 344, together with that part of the E1/2 of the SE1/4 of Sec. 14, Twp. 28-S, R-1-W of the 6th P.M., Sedgwick County, Kansas lying west of the Missouri Pacific Railroad right-of-way as established by deed filed in Book Misc. 1230, Page 342.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper. ADOPTED at Wichita, Kansas, this January 27, 2009.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, Director of Law

RESOLUTION NO. A09-001

**A RESOLUTION OF THE WICHITA AIRPORT AUTHORITY
ADOPTING AND IMPLEMENTING A SCHEDULE OF FEES AND CHARGES
FOR PASSENGER AIRLINES**

WHEREAS, the Wichita Airport Authority ("Authority") is the owner and operator of Wichita Mid-Continent Airport and Colonel James Jabara Airport ("Airports"); and

WHEREAS, the Authority is a body corporate and politic, organized and existing under the laws of the State of Kansas and the authority of K.S.A. 3-162, et seq., and vested with all powers, authority, and control over the Airports as codified in Code of the City of Wichita §2.12.1048; and

WHEREAS, the Airports are financed and managed under policies and practices designed to assure that they will always be self-supporting and will not require the expenditure of local tax funds for their operation, which policies require that the costs and expenses for facilities be paid by the users of such facilities who enjoy the commercial opportunities that such facilities create, and that such users also pay fees for such opportunities appropriate to and commensurate with the type and volume of business potential under leases, concession agreements, or permits; and

WHEREAS, in order to pay for expenses incurred in the construction, operation and maintenance of Mid-Continent Airport passenger terminal and to fund airfield improvements and capital projects of the Airports, to preserve such property and to promote and preserve the public health, safety and welfare, to enhance the Airports as public transportation facilities, and to protect established sources of revenue to the Airports; and

WHEREAS, the Authority considers it necessary, appropriate and reasonable to establish and fix appropriate fees, rates, and charges for passenger terminal users and airline aircraft operating on the Airport to meet the expenditures associated with the operation of these cost centers; and

WHEREAS, the Authority finds that the fees and charges established and fixed herein are reasonable and uniform for the class of privileges and services enjoyed by the passenger terminal users and airline aircraft operating on the Airport.

NOW, THEREFORE, BE IT RESOLVED BY THE WICHITA AIRPORT AUTHORITY:

SECTION 1. Fees and charges for scheduled passenger airlines are established as follows:

Landing fee per 1,000 lbs./MGLW	\$3.03
Terminal Space Rental per square foot per year:	
Ticket Counter	\$48.77
Holdrooms; Concourses; Bag Claim	\$43.89
Offices; VIP/Club Space	\$39.02
Bag Make-Up; Operations Space, Elevators	\$34.14
Inbound Bag; Tug Lane, Stairwells	\$24.39
Apron rate per linear foot per year	\$57.02

Use of Unleased Terminal Gate	\$75.00/flight
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Use of Loading Bridge \$82.50/flight

Aircraft parking on terminal apron other than at an exclusively leased gate
or when paying for use of an unleased gate

(a) 0-24 hours	\$62.50
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(b) Over 24 hours	\$3.75/hour
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SECTION 2. Fees and charges for non-scheduled passenger airlines are established as follows:

Landing fees, per 1,000 lbs./MGLW	\$3.63
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Terminal Space Rental per square foot per year:

Ticket Counter	\$48.77
----------------	---------

Holdrooms; Concourses; Bag Claim	\$43.89
----------------------------------	---------

Offices; VIP/Club Space	\$39.02
-------------------------	---------

Bag Make-Up; Operations Space, Elevators	\$34.14
------------------------------------------	---------

Inbound Bag; Tug Lane, Stairwells	\$24.39
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Apron rate per linear foot per year	\$57.02
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Use of Unleased Terminal Gate	\$90.00/flight
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Use of Loading Bridge \$99.00/flight

Aircraft parking on terminal apron other than at an exclusively leased gate
or when paying for use of an unleased gate

(a) 0-24 hours	\$75.00
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(b) Over 24 hours	\$4.50/hour
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Fuel Flowage Fee	\$0.12/gallon
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SECTION 3. In addition to the fees and charges set forth above, passenger airlines shall pay such other fees and charges as shall be adopted by the Authority from time to time, including but not limited to the following:

- o Use of law enforcement officer
- o Freight charge
- o Vendor permits
- o Solid and liquid waste disposal
- o Aircraft apron parking infringement
- o Security alarm violations
- o Security badges

- o Airfield vehicle ramp permits
- o Electrical usage
- o Ground handling commissions

In addition, passenger airlines shall be subject to insurance requirements and other rules and regulations adopted by the Authority from time to time.

SECTION 4. Scheduled passenger airlines that are party to a current Airline Airport Use and Lease Agreement with the Wichita Airport Authority are not subject to this Resolution.

SECTION 5. Effective Date. This Resolution shall be retroactively effective to January 1, 2009, upon its adoption by the Wichita Airport Authority.

SECTION 6. Savings Clause. In the event any phrase, clause, sentence, paragraph, or paragraphs of this Resolution is declared invalid for any reason, the remainder of this Resolution shall not be invalidated, but shall remain in full force and effect, all parts of this Resolution being declared separable and independent of all others.

ADOPTED this 13th day of January, 2009.

ATTEST:

WICHITA AIRPORT AUTHORITY

By _____

By _____

Title _____

Title _____

APPROVED AS TO FORM: _____ Date: _____

Director of Law

SCHEDULES OF FEES AND CHARGES
FOR THE WICHITA AIRPORT AUTHORITY

Schedule 1 - Signatory Scheduled Passenger Air Carriers

Schedule 2 – Non-Signatory Scheduled Passenger Air Carriers

Schedule 3 – Non-Signatory Non-Scheduled Passenger Air Carriers

Schedule 4 - Signatory All-Cargo Carriers

Schedule 5 – Non-Signatory All-Cargo Carriers

Schedule 6 - Non-Signatory Commercial Aircraft Operators

Schedule 7 - Non-Commercial Aircraft Operators and Military

Schedule 8 - Non-Aeronautical Users

Schedule 9 - Colonel James Jabara Airport

Effective Date: January 1, 2009

SCHEDULE 1

Signatory Scheduled Passenger Air Carriers

A Signatory Scheduled Passenger Air Carrier is defined as any company, organization or individual engaged in the business of air transportation, and who

1. Is operating under a Certificate pursuant to FAR Part 121, 123, 127, 129, or 135;
2. Has a current Airport Use Agreement with The Wichita Airport Authority;
3. Handles revenue passengers as a major business function on a regularly-scheduled basis to or from Wichita Mid-Continent Airport.

AIRPORT FEES AND CHARGES

Landing fee per 1,000 lbs./MGLW	\$2.42
Terminal Space Rental per square foot per year:	
Ticket Counter	\$44.08
Holdrooms; Concourses; Bag Claim	\$39.67
Offices; VIP/Club Space	\$35.26
Bag Make-Up; Operations Space, Elevators	\$30.85
Inbound Bag; Tug Lane, Stairwells	\$22.04
Passenger Loading Gate Apron Fee	\$14,400/year
Use of Unleased Terminal Gate	\$60.00/flight
Use of Loading Bridge	\$66.00/flight
Aircraft parking on terminal apron other than at an exclusively leased gate or when paying for use of an unleased gate	
(a) 0-24 hours	\$50.00
(b) Over 24 hours	\$3.00/hour
Fuel Farm Fee	As defined in Agreement
Passenger Facility Charge	\$4.50/eligible enplanement

SCHEDULE 2

Non-Signatory Scheduled Passenger Air Carriers

A Non-Signatory Scheduled Passenger Air Carrier is defined as any company, organization or individual engaged in the business of air transportation, and who

1. Is operating under a Certificate pursuant to FAR Part 121, 123, 127, 129, or 135;
2. Does not have a current Airport Use Agreement with The Wichita Airport Authority;
3. Handles revenue passengers as a major business function on a regularly-scheduled basis to or from Wichita Mid-Continent Airport.

AIRPORT FEES AND CHARGES

Landing fee per 1,000 lbs./MGLW	\$3.03
Terminal Space Rental per square foot per year:	
Ticket Counter	\$48.77
Holdrooms; Concourses; Bag Claim	\$43.89
Offices; VIP/Club Space	\$39.02
Bag Make-Up; Operations Space, Elevators	\$34.14
Inbound Bag; Tug Lane, Stairwells	\$24.39
Apron rate per linear foot per year	\$57.02
Use of Unleased Terminal Gate	\$75.00/flight
Use of Loading Bridge	\$82.50/flight
Aircraft parking on terminal apron other than at an exclusively leased gate or when paying for use of an unleased gate	
(a) 0-24 hours	\$62.50
(b) Over 24 hours	\$3.75/hour
Fuel Farm Fee	As defined
Passenger Facility Charge	\$4.50/eligible enplanement

SCHEDULE 3

Non-Signatory Non-Scheduled Passenger Air Carriers

A Non-Signatory Non-Scheduled Passenger Air Carrier is defined as any company, organization or individual engaged in the business of air transportation, and who

1. Is operating under a Certificate pursuant to FAR Part 121, 123, 127, 129, or 135;
2. Does not have a current Airport Use Agreement with The Wichita Airport Authority;
3. Handles revenue passengers as a major business function to or from Wichita Mid-Continent Airport.

AIRPORT FEES AND CHARGES

Landing fees, per 1,000 lbs./MGLW	\$3.63
Terminal Space Rental per square foot per year:	
Ticket Counter	\$48.77
Holdrooms; Concourses; Bag Claim	\$43.89
Offices; VIP/Club Space	\$39.02
Bag Make-Up; Operations Space, Elevators	\$34.14
Inbound Bag; Tug Lane, Stairwells	\$24.39
Apron rate per linear foot per year	\$57.02
Use of Unleased Terminal Gate	\$90.00/flight
Use of Loading Bridge	\$99.00/flight
Aircraft parking on terminal apron other than at an exclusively leased gate or when paying for use of an unleased gate	
(a) 0-24 hours	\$75.00
(b) Over 24 hours	\$4.50/hour
Fuel Flowage Fee	\$0.12/gallon
Law Enforcement Officer screening support when required (One hour minimum)	\$36.00/hour
Passenger Facility Charge	\$4.50/eligible enplanement

SCHEDULE 4

Signatory All-Cargo Carriers

A Signatory All-Cargo Carrier is defined as any company, organization or individual engaged in the air transportation business, and who

1. Is operating under a Certificate pursuant to FAR Part 91, 121, 123, 127, 129 or 135;
2. Has a current primary lease with The Wichita Airport Authority or a sublease which has been approved by The Wichita Airport Authority, either leasing facilities or leasing ground, if same are available, and has executed and complied with a Use Agreement as offered by The Wichita Airport Authority. This includes companies that are engaged in providing feeder service exclusively to one host all-cargo company that has complied with the lease requirements of this schedule.
3. Handles for hire cargo as a major business function to or from Wichita Mid-Continent Airport.

AIRPORT FEES AND CHARGES

Landing Fee, per 1,000 lbs./MGLW	\$2.42
Fuel Flowage Fee	\$0.03/gallon
Freight Charge (Enplaned & Deplaned)	\$0.10/cwt
Cargo Apron Aircraft Parking Charge	
(a) 0-2 hours; 0 - 12,500 lbs.	Free
(b) 2-24 hours; 0 - 12,500 lbs.	\$25.00
(c) 0-24 hours; over 12,500 lbs.	\$50.00
(d) Over 24 hours	\$3.00/hour

SCHEDULE 5

Non-Signatory All-Cargo Carriers

A Non-Signatory All-Cargo Carrier is defined as any company, organization or individual engaged in the air transportation business, and who

1. Is operating under a Certificate pursuant to FAR Part 91, 121, 123, 127, 129 or 135;
2. Does not have a current primary lease with The Wichita Airport Authority or a sublease which has been approved by The Wichita Airport Authority, either leasing facilities or leasing ground, if same are available, and has executed and complied with a Use Agreement as offered by The Wichita Airport Authority.
3. Handles for hire cargo as a major business function to or from Wichita Mid-Continent Airport.

AIRPORT FEES AND CHARGES

Landing Fee, per 1,000 lbs./MGLW	\$3.63
Fuel Flowage Fee	\$0.12/gallon
Freight Charge (Enplaned & Deplaned)	\$0.15/cwt
Cargo Apron Aircraft Parking Charge	
(a) 0-2 hours; 0 - 12,500 lbs.	Free
(b) 2-24 hours; 0 - 12,500 lbs.	\$37.50
(c) 0-24 hours; over 12,500 lbs.	\$75.00
(d) Over 24 hours	\$4.50/hour

SCHEDULE 6

Non-Signatory Commercial Aircraft Operators

A Non-Signatory Commercial Aircraft Operator is defined as any company, organization or individual engaged in the air transportation business, and who

1. Is operating under a Certificate pursuant to FAR Part 91, 121, 123, 127, 129 or 135;
2. Does not have a current Airport Use Agreement with The Wichita Airport Authority;
3. Is involved in any commercial (for hire) activity on Wichita Mid-Continent Airport not covered by other schedules.

AIRPORT FEES AND CHARGES

Landing Fee per 1,000 lbs./MGLW	\$3.63
Fuel Flowage Fee	\$0.12/gallon
Use of a Terminal Gate	\$90.00/flight
Use of Loading Bridge	\$99.00/flight
Law Enforcement Officer screening support when required (One hour minimum)	\$36.00/hour
Freight Charge (Enplaned and Deplaned)	\$0.15/cwt
Aircraft Parking Charge (other than at leased facilities)	
(a) 0-24 hours;	
0 - 12,500 lbs.	\$37.50
over 12,500 lbs.	\$75.00
(b) Over 24 hours	
	\$4.50/hr.

SCHEDULE 7

Non-Commercial Aircraft Operators and Military

A Non-Commercial Aircraft Operator is defined as any company, organization or individual engaged in air transportation, and who

1. Is operating under FAR Part 91 and is not involved in any commercial (for hire) activity on Wichita Mid-Continent Airport.
2. Is military or acting on behalf of the military (defined as under the jurisdiction and control of the Armed Forces of the United States or the National Guard).

AIRPORT FEES AND CHARGES

Landing Fee	None
Fuel Flowage Fee	\$0.12/gallon
Use of a Terminal Gate	\$90.00/flight
Use of Loading Bridge	\$99.00/flight
Law Enforcement Officer screening support when required (One hour minimum)	\$36.00/hour
Aircraft Parking (other than at leased facilities)	
(a) 0-24 hours	
0 - 12,500 lbs.	\$37.50
over 12,500 lbs.	\$75.00
(b) Over 24 hours	\$4.50/hour

SCHEDULE 8

Non-Aeronautical Users

A Non-Aeronautical User is defined as any company, organization or individual doing business on Wichita Mid-Continent Airport who is not engaged in air transportation. The Wichita Airport Authority establishes these fees and charges as the standard but reserves the right to vary from the published fees and charges in an agreement as negotiations may dictate. Other fees may apply based on the nature of service provided.

AIRPORT FEES AND CHARGES

Building Rental	FMV appraisal
Land Rental – Central Terminal Area	\$.3073/s.f.
• Escalates at 5% annually.	
Land Rental – Other	\$.1982/s.f.
• Escalates at 5% every five years. Next adjustment will be 1/1/2013.	
Traversed Property	\$.1982/s.f.
• Escalates at 5% every five years. Next adjustment will be 1/1/2013.	
Off-Airport Operator Commission	9% of gross receipts
On-Airport Operator Commission	10% of gross receipts
Ground Handling Commission (non-airline)	10% of gross receipts
Conduit Occupancy Fee	\$456/annum/facility access

SCHEDULE 9

Colonel James Jabara Airport

Any company, organization or individual doing business on Colonel James Jabara Airport is subject to the defined fees and charges. The Wichita Airport Authority establishes these fees and charges as the standard but reserves the right to vary from the published fees and charges in an agreement as negotiations may dictate.

AIRPORT FEES AND CHARGES

Building Rental	FMV appraisal
Land Rental	\$.1207/s.f.
<ul style="list-style-type: none">• Escalates at 3% annually.	
Traversed Property	\$.1172/s.f.
<ul style="list-style-type: none">• Escalates at 3% every five years. Next adjustment will be 1/1/2013.	
Fuel Flowage Fee	\$.08/gallon
Conduit Occupancy Fee	\$228/annum/facility access

City of Wichita
City Council Meeting
January 13, 2009

TO: Wichita Airport Authority

SUBJECT: 2009 Schedule of Fees and Charges and Resolution for the Wichita Airport Authority

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Adopt the Schedule and the Resolution.

Background: Annually the Wichita Airport Authority (WAA) adopts a Schedule of Fees and Charges and a Resolution to establish certain rates for aviation users of Mid-Continent Airport. The fees are calculated to maintain adequate revenue streams that will cover budgeted operating and capital costs incurred to support the related functions. The established rates for Non-Aeronautical Users and users of Colonel James Jabara Airport are set to appropriately compensate the WAA for operations on its premises.

Analysis: The landing fee and terminal space rental rate calculations are in accordance with the methodology established in the airline/airport use agreement and its application to the adopted budget. Other aviation user fees and non-aeronautical fees are set to reflect market price and in accordance with leasing policies previously adopted by the WAA. Rates are established through resolution for those entities that do not hold agreements with the WAA at a higher rate to reflect the lack of fixed commitment. **By action of the Wichita Airport Advisory Board (WAAB), the land rental escalation percentage at Jabara Airport has been increased from 2.5% annually to 3%.** A published rate for conduit occupancy fee and ground handling commission are included in this schedule for the first time in 2009. The proposed rates have been reviewed and approved by the **WAAB**.

Financial Considerations: The landing fee rate calculated for 2009 is 16% higher than the 2008 rate. This is due to a projected decrease in the number of landings by the passenger carriers. This increase has been presented and discussed with the signatory carriers. The average terminal rate is comparable with a 2% decrease. The other rates did not change from 2008 except for the land rental rates which adjust annually on a calendar year basis by a set percentage. **The financial impact of changing the escalation of the land rental rate at Jabara Airport is \$26 a year for one acre of land.** All of the use rates can be altered at any time by the WAA with appropriate deference to existing contracts. Rates will be retroactively effective January 1, 2009.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through establishment of a rate structure which allows the Airport to continue its operation on a self-sustaining basis.

Legal Considerations: Rates have been developed in accordance with Federal rates and charges regulations. The Resolution has been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the Wichita Airport Authority adopt the Schedule of Fees and Charges and the Resolution of the Wichita Airport Authority implementing a schedule of fees and charges for passenger airlines, all to be retroactively effective January 1, 2009.

Attachments: Schedule of Fees and Charges and Resolution.

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Wichita Airport Authority

SUBJECT: Airline Use Agreements – Supplemental Agreements

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreements.

Background: The Wichita Airport Authority has a uniform lease and use agreement with the passenger carrying airlines serving Wichita Mid-Continent Airport. Supplemental Agreements are included for the following airlines: AirTran, American, American Eagle, Atlantic Southeast, Chautauqua, ExpressJet, Mesa, Frontier Airlines Holdings, Inc., Northwest, Pinnacle, Skywest, US Airways, Inc., and United Airlines. The term of the current agreement is through December 31, 2008.

Analysis: It is the normal practice of the Wichita Airport Authority to enter into contractual agreements with the passenger carrying airlines serving Wichita Mid-Continent Airport in order to establish a business relationship and a basis for rentals, fees, and charges. It is now necessary to renew that agreement, effective January 1, 2009. It is recommended that the agreement be renewed for one year through December 31, 2009, in anticipation of a new agreement being developed to commence in 2010.

Financial Considerations: Under the contract methodology, passenger carrying airlines serving Wichita Mid-Continent Airport will pay for their proportionate share of the maintenance, operation, and debt service associated with the airfield and terminal building. The ensuing rates and charges are determined pursuant to DOT Policy, Federal Code, U. S. Supreme Court rulings, and negotiations. The estimated annual revenue for the coming year is approximately \$4.4 Million.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through extending agreements which allow the Airport to continue its operation on a self-sustaining basis.

Legal Considerations: The Law Department has approved the Supplemental Agreements as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreements; and authorize the necessary signatures.

Attachment: Standard supplemental agreement which is representative of the supplements presented to the 14 airlines for signature.

SUPPLEMENTAL AGREEMENT NUMBER SIX

AIRLINE AIRPORT USE AND LEASE AGREEMENT
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

AIRTRAN AIRWAYS, INC.

THIS SUPPLEMENTAL AGREEMENT NUMBER SIX, made and entered into this January 13, 2009 by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AIRTRAN AIRWAYS, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated May 7, 2002, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. One dated May 7, 2002, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. Two dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; Supplemental Agreement No. Three dated December 21, 2004, for the purpose of extending the term of the Agreement and modifying the exhibits, Supplemental Agreement No. Four dated January 9, 2007 which extended the term of the Agreement, addressed the relocation of the leased premises and modified the exhibits; and

Supplemental Agreement No. Five dated December 11, 2007 which extended the term of the Agreement and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. Six for the purpose of extending the term of the Agreement and modifying exhibits within the Agreement;

NOW, THEREFORE, the parties further agree as follows:

1.

Section 2.1 – Initial Term, as amended by Supplemental Agreement No. Five, shall be revised as follows:

“Section 2.1 – Initial Term

The effective term of this extended Agreement shall be for one year, commencing January 1, 2009, and expiring at midnight on December 31, 2009, subject to earlier termination as herein provided.”

2.

Section 3.1.A of Article III, Airline Premises, shall be modified to include the following language:

Exhibits “C” and “G”, attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

3.

It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By _____
Carl Brewer, President
"Authority"

By _____
Victor D. White, Director of Airports

ATTEST:

AIRTRAN AIRWAYS, INC.

By _____

By _____
"Airline"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

EXHIBIT "C"
SUMMARY OF TERMINAL AREAS

Page 1 of 2

AIRLINE TERMINAL SPACE

	<u>Ticket Counter</u> (Type 1)	<u>Hold Rooms</u> (Type 2)	<u>Offices</u> (Type 3)	<u>VIP/Club</u> (Type 3)	<u>Operations</u> (Type 4)	<u>Bag Make-Up</u> (Type 4)	<u>Total</u>	
AirTran	233	1,689	581	-	150	651	3,304	s.f.
America West (US Airways)	217	1,468	431	-	1,291	627	4,034	s.f.
American	-	-	-	-	-	-	-	s.f.
American Eagle	200	2,224	1,098	-	1,637	1,752	6,911	s.f.
Atlantic Southeast	434	1,689	1,102	-	-	1,093	4,318	s.f.
Chautauqua	-	-	-	-	-	-	-	s.f.
Delta	-	-	-	-	-	-	-	s.f.
ExpressJet (CO)	105	1,470	-	-	203	-	1,778	s.f.
Frontier Holdings	233	1,016	467	-	339	399	2,454	s.f.
Mesa	-	-	-	-	-	-	-	s.f.
Northwest	259	1,964	487	-	1,396	762	4,868	s.f.
Pinnacle	-	-	-	-	-	-	-	s.f.
Republic	-	-	-	-	-	-	-	s.f.
Skywest	-	-	-	-	-	-	-	s.f.
United	335	1,467	1,145	-	-	668	3,615	s.f.
Vacant	644	6,318	3,905	-	18,768	2,592	32,227	s.f.
	2,660	19,305	9,216	-	23,784	8,544	63,509	s.f.

AIRLINE JOINT USE SPACE

	<u>Concourses</u> (Type 2)	<u>Bag Claim</u> (Type 2)	<u>Elevators</u> (Type 4)	<u>Inbound Baggage/ Tug Lane</u> (Type 5)	<u>Stairwells</u> (Type 5)	<u>Total</u>	
Joint Use	7,917	7,808	1,205	4,374	1,661	22,965	s.f.

EXHIBIT "C"
SUMMARY OF TERMINAL AREAS

Page 2 of 2

TERMINAL SPACE SUMMARY

	<u>Airline Use</u>	<u>Joint Use</u>	<u>Concession Space</u>	<u>Commercial Space</u>	<u>Public Area</u>	<u>Mechanical/ Utility Space</u>	<u>Total</u>	
Airline Space	63,509	22,965	-	-	-	-	86,474	s.f.
Other Rentable	-	-	20,912	5,558	12,028 (a)	-	38,498	s.f.
Subtotal Rentable Space	63,509	22,965	20,912	5,558	12,028	-	124,972	s.f.
Other Areas	-	-	-	16,885 (b)	40,006	5,245	62,136	s.f.
Total Terminal Area	63,509	22,965	20,912	22,443	52,034	5,245	187,108	s.f.

(a) For purposes of this agreement, the public concourse area between Gates 1 & 2 and 7 & 8 is considered rentable.

(b) For purposes of this agreement, a portion of the commercial area on the second floor is considered unusable.

EXHIBIT “G”

ADJUSTMENT OF RATES FOR RENTALS, FEES, AND CHARGES

Section G.1 - Adjustment of Signatory Airline Rates

Signatory Airline rates for Terminal rentals, landing fees, and apron fees shall be adjusted as set forth in Article VII and this Exhibit G. Tables G-1 through G-3 set forth the method to be used in calculating the Signatory Airline average Terminal rental rate and the landing fees rate. The apron fees rate for Aircraft Parking Aprons shall be established as set forth in Section G.3.

Section G.2 - Airline Rentals, Fees, and Charges

G.2.A. Airline’s Terminal rentals in each period shall be determined as the sum of:

G.2.A.(1) The product of the appropriate differential Terminal rental rates for the period and the amount of each type of Airline’s Exclusive Use Premises and Preferential Use Premises.

G.2.A.(2) Airline’s share of rentals for Joint Use Premises. Rentals for Joint Use Premises shall be calculated as the product of the appropriate differential Terminal rental rates for the period and the amount of each category of Joint Use Premises. Airline’s share of rentals for Joint Use Premises shall be determined as set forth in Section 6.2.B. of this Agreement.

G.2.B. Airline’s apron fees in each period shall be determined as the product of the apron fees rate for the period and the number of aircraft passenger loading gates leased by Airline.

G.2.C. Airline’s landing fees in each period shall be determined as the product of the landing fees rate for the period and airline’s landed weight for the period. Airline’s landed weight for each period shall be determined as the sum of the Maximum Gross Landing Weight of each of Airline’s aircraft multiplied by the number of Revenue Landings by each of said aircraft at Airport during the period. Training and Testing flight landings not exceeding 10% of Revenue landings as well as return landings as defined within the term Revenue Landings shall be excluded from landing fee calculations.

Section G.3 - Signatory Airline Apron Fees Rate

The annual Signatory Airline apron fees rate shall initially be \$14,400 per aircraft passenger loading gate, with said rate to be adjusted annually in accordance with changes in the U.S. Implicit Price Deflator Index.

Section G.4 - Differential Terminal Rates

G.4.A. Premises leased by Signatory Airlines in the Terminal shall be classified according to types of space for the purpose of establishing differential rental rates by location and function as set forth below:

<u>Types of Space</u>	<u>Location/Function</u>	<u>Weighted Value</u>
1	Ticket Counter	1.00
2	Holdrooms; Concourses; Bag Claim	0.90
3	Offices; VIP/Club Space	0.80
4	Bag Make-Up; Operations Space, Elevators	0.70
5	Inbound Bag; Tug Lane, Stairwells	0.50

G.4.B. The amount of each type of space shall be as set forth in Exhibit "C", as such shall be amended from time to time pursuant to this Agreement. A summary of each type of space as shown on Exhibit "C" is set forth below:

Type of Space						
	Type 1	Type 2	Type 3	Type 4	Type 5	Total
<i>Airline Exclusive Use and Preferential Use</i>						
AirTran	233	1,689	581	801	0	3,304 s.f.
America West	217	1,468	431	1,918	0	4,034 s.f.
American Eagle	200	2,224	1,098	3,389	0	6,911 s.f.
Atlantic Southeast	434	1,689	1,102	1,093	0	4,318 s.f.
Continental Express	105	1,470	0	203	0	1,778 s.f.
Frontier Holdings	233	1,016	467	738	0	2,454 s.f.
Northwest	259	1,964	487	2,158	0	4,868 s.f.
United	335	1,467	1,145	668	0	3,615 s.f.
Vacant	644	6,318	3,905	21,360	0	32,227 s.f.
<i>Sub-Total</i>	2,660	19,305	9,216	32,328	0	63,509 s.f.
<i>Airline Joint Use</i>	0	15,725	0	1,205	6,035	22,965 s.f.
Total Airline Space	2,660	35,030	9,216	33,533	6,035	86,474 s.f.

G.4.C. Using the above space totals, as such may be amended from time to time pursuant to this Agreement, the average Terminal rental rate in each period shall be converted to differential Terminal rental rates by weighting the amount of Type 1 through 5 space for all Signatory Airlines by the relative factors set forth in Paragraph G.4.A. to obtain a weighted equivalent amount of space. The total amount of Signatory Airline Terminal rentals for Type 1 through 5 space shall be next determined as the product of the average Terminal rate for the period multiplied by the total amount of said Signatory Airline space, and divided by the weighted equivalent space to determine the rate for the

Type 1 (premium) space. Rates for Types 2 through 5 space shall then be determined by multiplying the relative factors for these types of space by the Type 1 premium rate.

Section G.5 - Signatory Airline Rates For The Current Rate Setting Period

G.5.A. For the period extending from January 1, 2009 to December 31, 2009, Signatory Airline Terminal rental rates shall be as follows:

<u>Type of Space</u>	<u>Location/Function</u>	<u>Annual Rate per Sq. Ft.</u>
1	Ticket Counter	\$44.08
2	Holdrooms; Concourses; Bag Claim	\$39.67
3	Offices; VIP/Club Space	\$35.26
4	Bag Make-Up; Operations Space, Elevators	\$30.85
5	Inbound Bag; Tug Lane, Stairwells	\$22.04

These rates are based upon an average Signatory Airline Terminal rental rate of \$34.69 per square foot, as calculated in Table G-1.

G.5.B. For the period set forth in Paragraph G.5.A, the annual Signatory Airline apron fees rate shall be \$14,400 per aircraft passenger loading gate leased by Airline.

G.5.C. For the period set forth in Paragraph G.5.A, the Signatory Airline landing fees rate shall be \$2.42 per 1,000 pounds of Maximum Gross Landing Weight.

Section G.6 - Explanation of Table G-1 Line Items

G.6.A **Direct O&M Expenses.** These expenses are incurred for operation and maintenance of the Airport and are attributable to direct cost centers.

G.6.B **Indirect O&M Expenses.** These expenses are associated with the operation and maintenance of the Airport, but cannot be associated with specific revenue-producing activities, and are allocated to the direct cost centers for rate setting purposes.

G.6.C **Capital Charges.** These charges include Capital Charges as defined in Section 1.1.

G.6.D **Debt Service Coverage.** In the event general purpose revenue bonds are issued for Airport System improvements or projects, coverage equal to twenty-five percent (25%) of Debt Service assignable to the Terminal and Airfield cost centers (including amounts allocable from indirect cost centers) would be included as a rate-base element.

G.6.E **Special Fund/Accounts.** In the event a general purpose Airport System revenue bond financing occurs, allocable portions of any special funds or accounts would be included as rate-base elements, as follows:

G.6.E.(1) Debt Service Reserve Fund deficiencies – allocated 100 percent to landing fees calculation.

G.6.E.(2) O&M Reserve deficiencies – allocated to direct cost centers in proportion to direct and allocated indirect operation and maintenance expenses in each.

G.6.E.(3) Renewal and replacement fund replenishment – to be funded through coverage funds if sufficient; otherwise included in Terminal rental and landing fees rate-bases in proportion to the revenue bond Debt Service in each.

G.6.F **Apron Fees.** Apron fees shall be credited against the Airfield landing fees requirement.

G.6.G **Other Landing Fees.** Cargo Airline landing fee and landing fees collected from any Air Transportation Companies other than Signatory Airlines.

G.6.H **Other Airfield Offsets.** Revenues received as fuel flowage fees, in-flight catering concession fees, and any other miscellaneous Airfield revenues, shall be credited against the airfield landing fees requirement.

G.6.I **Security Reimbursements.** Revenues received as reimbursement for security expenses shall be credited against the Terminal rental requirement.

G.6.J **Average Terminal Rental Rate.** The adjusted Terminal rental requirement shall be divided by usable Terminal area (gross area per Exhibit “C” less mechanical/utility space) to calculate the required average Terminal rental rate in each period.

G.6.K **Landing Fees Rate.** The adjusted Airfield landing fees requirement shall be divided by Signatory Airline landed weight to calculate the required Signatory Airline landing fees rate in each period.

Section G.7 - Airport Cost Centers

Airport cost centers used in the determination of rates for rentals, fees, and charges shall include, but not necessarily be limited to, those described in Paragraphs G.7.A. and G.7.B below.

G.7.A. **Direct Cost Centers.**

01 - Airfield - Areas provided for the landing, takeoff, and taxiing of aircraft; aircraft parking; approach and clear zones; and avigation easements.

02 - Terminal - Terminal building and concourses, including areas below concourses. Airport expenses associated with security screening and the public address system shall be included in the Terminal cost center.

03 - Other Airline - Air cargo buildings and associated apron areas; airline maintenance buildings; building space occupied by Air Midwest; and any other miscellaneous Airline facilities not included in the Terminal cost center.

04 - Ground Transportation - All landside roadways, rental car facilities and areas, and auto parking facilities and areas.

05 - General Aviation - United Beechcraft and Yingling Aircraft, including associated aircraft storage and auto parking facilities.

06 - Commercial & Other Aviation - All other leased facilities and properties including Cessna, Gates Learjet, Hilton Hotel, and other miscellaneous commercial enterprises.

07 - Government - FAA activities, including Tower and Flight Service Station; U.S. Post Office; and U.S. Weather Service.

08 - Jabara - All activities and facilities at Colonel James Jabara Airport.

G.8.B Indirect Cost Centers.

09 - Administration - Administration activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

10 - Building Maintenance - Maintenance activities and facilities which are dedicated to buildings and which cannot be directly assigned to other direct or indirect cost centers.

11 - Field Maintenance - Maintenance activities and facilities which are dedicated to airside and landside other than buildings and which cannot be directly assigned to other direct or indirect cost centers.

12 - Custodial - Janitorial activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

13 - Engineering - Activities and facilities associated with project development and grant administration which cannot be directly assigned to other direct or indirect cost centers.

14 - Safety - ARFF and medical activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

15 - Systems & Services - Special services and utilities which cannot be directly assigned to other direct or indirect cost centers.

Section G.8 - Indirect Cost Center Allocations

Expenses for each indirect cost center shall be allocated to the direct cost centers as set forth in Paragraphs G.8.A. through G.8D. below.

G.8.A. **Custodial (12)** - Expenses for Custodial (12), which represent Terminal custodial/janitorial expenses, shall be allocated 100 percent to the Terminal (02) cost center.

G.8.B. **Administration (09), Building Maintenance (10), Field Maintenance (11), and Engineering (13)** - Expenses for Administration (09), Building Maintenance (10), Field Maintenance (11), and Engineering (13) shall be allocated as follows:

<u>Direct Cost Center</u>	<u>Admini- stration (09) (%)</u>	<u>Building Maint. (10) (%)</u>	<u>Field Maint. (11) (%)</u>	<u>Engineering (13) (%)</u>
Airfield (01)	20.0	-	50.0	25.0
Terminal (02)	35.0	75.0	5.0	30.0
Other Airline (03)	5.0	5.0	5.0	5.0
Ground Transport (04)	10.0	5.0	10.0	5.0
General Aviation (05)	10.0	5.0	15.0	5.0
Comm & Otr Avtn (06)	5.0	5.0	5.0	5.0
Government (07)	5.0	-	5.0	5.0
Jabara (08)	<u>10.0</u>	<u>5.0</u>	<u>5.0</u>	<u>20.0</u>
	100.0	100.0	100.0	100.0

G.8.C **Safety (14)** - Expenses for Safety (14) shall be allocated to each direct cost center based on the following allocation percentages:

<u>Direct Cost Center</u>	<u>Percentage</u>
Airfield (01)	70.0%
Terminal (02)	5.0
Other Airline (03)	5.0
Ground Transportation (04)	5.0
General Aviation (05)	5.0
Commercial & Other Aviation (06)	5.0
Government (07)	5.0

Jabara (08)

-
100.0%

G.8.D. **Systems and Services (15)** - Expenses for Systems and Services (15) shall be allocated in proportion to the direct assignments of Systems and Services expenses to the direct cost centers. Based on 2007 actual data, the assignment percentages used to estimate the rates for the rate setting period indicated in Section G.5 are as follows:

<u>Direct Cost Center</u>	<u>Percentage</u>
Airfield (01)	24.0%
Terminal (02)	58.0
Other Airline (03)	2.0
Ground Transportation (04)	6.0
General Aviation (05)	0.0
Commercial & Other Aviation (06)	1.0
Government (07)	9.0
Jabara (08)	<u>0.0</u>
	100.0%

<p align="center">Wichita Airport Authority Exhibit G-1 Calculation of Terminal Rental and Landing Fee Rates 2009 Budget</p>

See Note		Budget 2009 Airfield Landing Fees Rate	Budget 2009 Average Terminal Rental Rate	Budget 2008 Airfield Landing Fees Rate	Budget 2008 Average Terminal Rental Rate
1.A	Direct Operation and Maintenance Expenses	\$ 1,449,286	\$ 2,672,991	\$ 1,516,110	\$ 2,691,152
1.B	Indirect Operation and Maintenance Expenses	2,085,056	1,409,440	2,098,286	1,491,664
	Subtotal O & M Expenses	3,534,342	4,082,431	3,614,396	4,182,816
1.C	Debt Service	136,197	252,481	154,582	237,516
1.D	Revenue Bond Coverage	-	-	-	-
1.E	Special Funds/Accounts	-	-	-	-
	Total Requirement	3,670,539	4,334,912	3,768,978	4,420,332
1.H	Less: Security Reimbursements		-		-
1.F	Less: Apron Fees	(115,200)		(100,800)	
1.G	Less: Other Landing Fees	(526,888)		(503,935)	
1.G	Less: Other Airfield Offsets	(645,000)		(730,000)	
	Adjusted Requirement	\$ 2,383,451	\$ 4,334,912	\$ 2,434,243	\$ 4,420,332
1.I	Terminal Area S.F. (Less Mech/Util)		124,972		124,972
1.I	Average Terminal Rental Rate		\$ 34.69		\$ 35.37
1.J	Signatory Airline Landed Weight (M-lbs.)	984,050		1,166,960	
1.J	Landing Fees Rate	\$ 2.42		\$ 2.09	

Differential Terminal Rates
2009 Budget

	<u>Budget 2009</u>	<u>Budget 2008</u>
Average Terminal Rental Rate	\$ 34.69	\$ 35.37
Signatory Airline Space	86,474	86,474
Total Rentals	\$ 2,999,529.10	\$ 3,058,635.43
Relative Space	68,050.40	68,050.40
Premium	\$ 44.08	\$ 44.95
Type 1 Rate	\$ 44.08	\$ 44.95
Type 2 Rate	\$ 39.67	\$ 40.45
Type 3 Rate	\$ 35.26	\$ 35.96
Type 4 Rate	\$ 30.85	\$ 31.46
Type 5 Rate	\$ 22.04	\$ 22.47

Exhibit G-2
(Page 1 of 2)
Three Year Detail of
O & M Expenses

	Actual Preceding Fiscal Year 2007	Estimated Current Fiscal Year 2008	Budget Next Fiscal Year 2009
<u>O&M Expenses</u>			
Direct O&M Expenses			
Airfield	\$ 1,639,407	\$ 1,516,110	\$ 1,449,286
Terminal	2,843,885	2,691,152	2,672,991
Other Airline	59,371	55,712	57,895
Ground Transportation	235,192	223,806	183,041
General Aviation	56,638	71,577	60,643
Commercial & Other Aviation	67,683	78,668	61,677
Government	196,756	174,001	187,822
Jabara	220,299	206,154	174,120
Subtotal Direct	5,319,231	5,017,180	4,847,475
Indirect O&M Expenses			
Administration	2,045,300	2,201,651	1,503,954
Building Maintenance	246,909	293,756	341,595
Field Maintenance	694,278	698,898	768,971
Custodial	179,761	164,299	242,029
Engineering	513,970	530,595	541,066
Safety	1,723,198	1,658,576	1,749,348
Systems & Services	133,397	92,840	166,543
Subtotal Indirect	5,536,813	5,640,615	5,313,505
Total O&M Expenses	\$ 10,856,044	\$ 10,657,795	\$ 10,160,980

Exhibit G-2
(Page 2 of 2)
Three Year Detail of
Debt Service

	Actual Preceding Fiscal Year 2007	Estimated Current Fiscal Year 2008	Budget Next Fiscal Year 2009
<u>Debt Service</u>			
Direct Debt Service			
Airfield	\$ 60,646	\$ 100,858	\$ 70,246
Terminal	78,379	78,632	101,407
Other Airline	40,902	40,888	41,333
Ground Transportation	327,514	253,527	185,811
General Aviation	37,830	37,459	38,164
Commercial & Other Aviation	42,316	42,314	42,364
Government	68,347	68,529	63,401
Jabara	77,877	77,044	78,158
Subtotal Direct	733,811	699,251	620,884
Indirect Debt Service			
Administration	16,546	16,664	16,648
Building Maintenance	76,638	76,638	76,638
Field Maintenance	27,555	27,558	27,826
Custodial	-	-	-
Engineering	-	-	-
Safety	18,897	19,001	19,086
Systems & Services	145,747	145,695	147,281
Unassigned	53,431	54,073	53,421
Subtotal Indirect	338,814	339,629	340,901
Total Debt Service	\$ 1,072,625	\$ 1,038,880	\$ 961,785

Exhibit G-3

Three Year Detail of Revenues
After Adjustment for Settlement

	Actual Preceding Fiscal Year 2007	Estimated Current Fiscal Year 2008	Budget Next Fiscal Year 2009
Airfield			
Signatory Airline Landing Fees	\$ 2,526,281	\$ 2,434,243	\$ 2,383,451
Nonsignatory Airline Landing Fees	74,511	10,951	27,842
Cargo Airline Landing Fees	493,752	492,983	499,046
Signatory Airline Apron Fees	115,638	100,800	115,200
Aviation Fuel Flowage Fees	641,395	700,000	615,000
Inflight Catering	-	-	0
Other Airfield Revenues	(14,984)	30,000	(405,020)
Subtotal Airfield	3,836,593	3,768,977	3,235,519
Terminal			
Rentals - Airlines	1,925,658	1,936,605	1,997,251
Security Reimbursement	-	-	0
Other Terminal Revenues	762,936	715,738	802,458
Subtotal Terminal	2,688,594	2,652,343	2,799,710
Other Airline	430,058	519,296	627,934
Ground Transportation	5,858,257	5,634,403	6,236,544
General Aviation	691,305	670,088	691,760
Commercial & Other Aviation	2,335,774	2,446,349	2,782,245
Government	953,716	647,772	803,956
Jabara	344,199	424,810	450,510
Other (Indirect)	618,389	784,130	837,872
Total Revenue	\$ 17,756,885	\$ 17,548,168	18,466,051

Wichita Airport Authority
Comparison
Landing Fee Rates
2009 Budget

See Note		Budget 2009 Airfield Landing Fees Rate	Budget 2008 Airfield Landing Fees Rate	Dollar Difference	Percent Difference
1.A	Direct Operation and Maintenance Expenses	\$ 1,449,286	\$ 1,516,110	\$ (66,824)	-4%
1.B	Indirect Operation and Maintenance Expenses	2,085,056	2,098,286	(13,230)	-1%
	Subtotal O & M Expenses	3,534,342	3,614,396	(80,054)	-2%
1.C	Debt Service	136,197	154,582	(18,385)	-12%
1.D	Revenue Bond Coverage	-	-	-	#DIV/0!
1.E	Special Funds/Accounts	-	-	-	#DIV/0!
	Total Requirement	3,670,539	3,768,978	(98,439)	-3%
1.F	Less: Apron Fees	(115,200)	(100,800)	(14,400)	14%
1.G	Less: Other Landing Fees	(526,888)	(503,935)	(22,953)	5%
1.G	Less: Other Airfield Offsets	(645,000)	(730,000)	85,000	-12%
	Adjusted Requirement	\$ 2,383,451	\$ 2,434,243	(50,792)	-2%
1.J	Signatory Airline Landed Weight (M-lbs.)	984,050	1,166,960	(182,910)	-16%
1.J	Landing Fees Rate	\$ 2.42	\$ 2.09	\$ 0.34	16%

Wichita Airport Authority
Comparison
Terminal Rental Rates
2004 Budget

See Note		Budget 2009 Average Terminal Rental Rate	Budget 2008 Average Terminal Rental Rate	Dollar Difference	Percent Difference
1.A	Direct Operation and Maintenance Expenses	\$ 2,672,991	\$ 2,691,152	\$ (18,161)	-1%
1.B	Indirect Operation and Maintenance Expenses	1,409,440	1,491,664	(82,224)	-6%
	Subtotal O & M Expenses	4,082,431	4,182,816	(100,385)	-2%
1.C	Debt Service	252,481	237,516	14,965	6%
1.D	Revenue Bond Coverage	-	-	-	#DIV/0!
1.E	Special Funds/Accounts	-	-	-	#DIV/0!
	Total Requirement	4,334,912	4,420,332	(85,420)	-2%
1.H	Less: Security Reimbursements	-	-	-	#DIV/0!
	Adjusted Requirement	4,334,912	\$ 4,420,332	(85,420)	-2%
1.I	Terminal Area S.F. (Less Mech/Util)	124,972	124,972	-	0%
1.I	Average Terminal Rental Rate	\$ 34.69	\$ 35.37	\$ (0.68)	-2%

<p style="text-align: center;">Comparison O & M Expenses</p>

	Estimated Current Fiscal Year 2008	Budget Next Fiscal Year 2009	Dollar Difference	Percent Difference
<u>O&M Expenses</u>				
Direct O&M Expenses				
Airfield	\$ 1,516,110	\$ 1,449,286	\$ (66,824)	-4%
Terminal	2,691,152	2,672,991	(18,161)	-1%
Other Airline	55,712	57,895	2,183	4%
Ground Transportation	223,806	183,041	(40,765)	-18%
General Aviation	71,577	60,643	(10,934)	-15%
Commercial & Other Aviation	78,668	61,677	(16,991)	-22%
Government	174,001	187,822	13,821	8%
Jabara	206,154	174,120	(32,034)	-16%
Subtotal Direct	5,017,180	4,847,475	(169,705)	-3%
Indirect O&M Expenses				
Administration	2,201,651	1,503,954	(697,697)	-32%
Building Maintenance	293,756	341,595	47,839	16%
Field Maintenance	698,898	768,971	70,073	10%
Custodial	164,299	242,029	77,730	47%
Engineering	530,595	541,066	10,471	2%
Safety	1,658,576	1,749,348	90,772	5%
Systems & Services	92,840	166,543	73,703	79%
Subtotal Indirect	5,640,615	5,313,505	(327,110)	-6%
Total O&M Expenses	\$ 10,657,795	\$ 10,160,980	(496,815)	-5%

Comparison Debt Service

	Estimated Current Fiscal Year 2008	Budget Next Fiscal Year 2009	Dollar Difference	Percent Difference
<u>Debt Service</u>				
Direct Debt Service				
Airfield	\$ 100,858	\$ 70,246	\$ (30,612)	-30%
Terminal	78,632	101,407	22,775	29%
Other Airline	40,888	41,333	445	1%
Ground Transportation	253,527	185,811	(67,716)	-27%
General Aviation	37,459	38,164	705	2%
Commercial & Other Aviation	42,314	42,364	50	0%
Government	68,529	63,401	(5,128)	-7%
Jabara	77,044	78,158	1,114	1%
Subtotal Direct	699,251	620,884	(78,367)	-11%
Indirect Debt Service				
Administration	16,664	16,648	(16)	0%
Building Maintenance	76,638	76,638	-	0%
Field Maintenance	27,558	27,826	268	1%
Custodial	-	-	-	#DIV/0!
Engineering	-	-	-	#DIV/0!
Safety	19,001	19,086	85	0%
Systems & Services	145,695	147,281	1,586	1%
Unassigned	54,073	53,421	(652)	-1%
Subtotal Indirect	339,629	340,901	1,272	0%
Total Debt Service	\$ 1,038,880	\$ 961,785	(77,095)	-7%

<p align="center">Comparison Operating Revenues</p>

	Estimated Current Fiscal Year 2008	Budget Next Fiscal Year 2009	Dollar Difference	Percent Difference
Airfield				
Signatory Airline Landing Fees	\$ 2,434,243	\$ 2,383,451	\$ (50,792)	-2%
Nonsignatory Airline Landing Fees	10,951	27,842	16,891	154%
Cargo Airline Landing Fees	492,983	499,046	6,063	1%
Signatory Airline Apron Fees	100,800	115,200	14,400	14%
Aviation Fuel Flowage Fees	700,000	615,000	(85,000)	-12%
Inflight Catering	-	0	-	#DIV/0!
Other Airfield Revenues	30,000	(405,020)	(435,020)	-1450%
Subtotal Airfield	3,768,977	3,235,519	(533,457)	-14%
Terminal				
Rentals - Airlines	1,936,605	1,997,251	60,646	3%
Security Reimbursement	-	0	-	#DIV/0!
Other Terminal Revenues	715,738	802,458	86,720	12%
Subtotal Terminal	2,652,343	2,799,710	147,367	6%
Other Airline	519,296	627,934	108,638	21%
Ground Transportation	5,634,403	6,236,544	602,141	11%
General Aviation	670,088	691,760	21,672	3%
Commercial & Other Aviation	2,446,349	2,782,245	335,896	14%
Government	647,772	803,956	156,184	24%
Jabara	424,810	450,510	25,700	6%
Other (Indirect)	784,130	837,872	53,742	7%
Total Revenue	\$ 17,548,168	18,466,051	917,883	5%

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Wichita Airport Authority

SUBJECT: Southwest Area Site Development
Supplemental Agreement No. 2
Colonel James Jabara Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: On September 13, 2005 the Wichita Airport Authority (WAA) approved an agreement with Professional Engineering Consultants (PEC) for \$43,200 for design and bid phase services. On September 12, 2006 the WAA approved Supplemental Agreement No. 1 with PEC for construction-related services in the amount of \$56,020.

Analysis: A supplemental agreement has been prepared to authorize additional design to adjust parking and utilities and add additional construction-related services contract time due to extended construction time.

Financial Considerations: The cost of the construction-related services and the additional design services is a not-to-exceed amount of \$15,900, and will be funded with General Obligation Bonds paid for with Airport Revenue, and is within the project budget.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements to allow tenant development.

Legal Considerations: The agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the supplemental agreement and authorize the necessary signatures.

Attachment: Supplemental Agreement No. 2.

SUPPLEMENTAL AGREEMENT NO. 2
TO THE
AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THE WICHITA AIRPORT AUTHORITY, "OWNER",
AND
PROFESSIONAL ENGINEERING CONSULTANTS, "CONSULTANT",

WITNESSETH:

WHEREAS, there now exists a Contract, dated _____ and Supplemental Agreement #1 dated September 12, 2006, between the two parties covering professional services to be provided by the CONSULTANT in conjunction with the construction of improvements to Southwest Area Site Development Improvements at Colonel James Jabara Airport.

WHEREAS, ARTICLE IV, B. of the referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the CONSULTANT provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. SCOPE OF SERVICES

The description of the improvements that the OWNER intends to construct and thereafter called the "PROJECT" as stated within ARTICLE I of the referenced Contract and Sections I and II of the Supplemental Agreement #1 is hereby amended to include the following:

1. Provide additional design services regarding adjusting the location of the parking lot, retaining wall and sewage lift station.
2. Provide additional construction phase services due to the construction phase lasting approximately 80 days beyond the original construction contract period.

B. PAYMENT PROVISIONS

The fee in ARTICLE IV, A3, shall be amended to include the following:

Payment to the CONSULTANT for the performance of the professional services as outlined in this Supplemental Agreement shall be made on the basis of the fee specified herein:

1. Lump sum for additional design services described in Section A of this Agreement at \$3,500.00. See EXHIBIT A.
2. Cost plus fixed fee for additional construction phase services described in Section A of this Agreement at a not to exceed amount of \$12,400.00. See EXHIBIT A.

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the OWNER and the CONSULTANT executes this Supplemental Agreement as of this _____ day of _____, 2009.

ATTEST:


WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

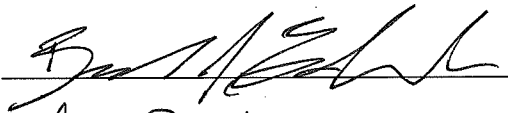
By: _____
Karen Sublett, City Clerk

By: _____
Carl Brewer, President
"OWNER"

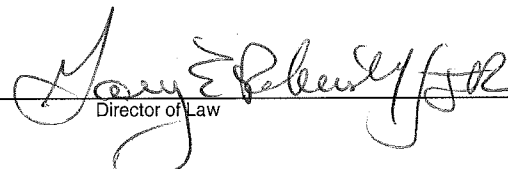
By: _____
Victor White, Director of Airports

ATTEST:

By: 
Title: Vice Pres. Dept
P.E.C.

By: 
Title: Counsel Div MGR

APPROVED AS TO FORM:


Director of Law

Date: _____

EXHIBIT A

COLONEL JAMES JABARA AIRPORT

Additional Construction Phase Services for Southwest Area Site Development Improvements

<u>PHASE</u>	<u>MAN-HOURS</u>	<u>FEE</u>	<u>EXPENSES</u>	<u>TOTAL</u>
Utility and Paving -				
Administration	10	\$ 650.00	0.00	\$ 650.00
Inspection	208	\$11,450.00	\$ 300.00	<u>\$11,750.00</u>
			TOTAL	\$12,400.00
 Additional Design Services				
	53	\$3,500.00	0.00	<u>\$3,500.00</u>
		GRAND TOTAL		\$15,900.00

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Wichita Airport Authority

SUBJECT: Tenant Facility Improvements
1761 Airport Road and 2010 Airport Road on Wichita Mid-Continent Airport
3340 Jabara Road on Colonel James Jabara Airport
Supplemental Agreement No. 1

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: On May 20, 2008 the WAA approved a project and design contract with Howard & Helmer for the HVAC and re-roof of the FAA leased building located at 1761 Airport Road with a budget of \$715,000. On August 5, 2008 the WAA approved the 2008 re-roof project and design contract with Howard & Helmer for the buildings at 2010 Airport Road on Mid-Continent Airport and 3340 Jabara Road on Colonel James Jabara Airport with a budget of \$225,000. These projects are included in the 2008-2016 Capital Improvements Program (CIP).

Analysis: A supplemental agreement has been prepared with Howard & Helmer to authorize construction-related services.

Financial Considerations: The cost of the construction-related services is a not-to-exceed amount of \$78,550. The project will be funded with General Obligation bonds paid for with Airport Revenue. The existing budgets will cover all costs.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through accommodating tenants in allowing improvements to be made which will enhance the usefulness and marketability of WAA-owned facilities.

Legal Considerations: The supplemental agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the supplemental agreement and authorize the necessary signatures.

Attachment: Supplemental Agreement No. 1.

SUPPLEMENTAL AGREEMENT NO. 1
TO THE
AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THE WICHITA AIRPORT AUTHORITY, "OWNER",
AND
HOWARD & HELMER architects p. a.
d.b.a. HOWARD + HELMER ARCHITECTURE
, "CONSULTANT",

WITNESSETH:

WHEREAS, there now exists a Contract, dated May 20, 2008 between the two parties covering professional services to be provided by the CONSULTANT in conjunction with the construction of improvements to HVAC UPGRADE AND RE-ROOF OF 1761 AIRPORT ROAD

WHEREAS, ARTICLE IV, B. of the referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the CONSULTANT provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. SCOPE OF SERVICES

The description of the improvements that the OWNER intends to construct and thereafter called the "PROJECT" as stated within ARTICLE I of the referenced Contract is hereby amended to include the following:

- Phase III of the original contract.

B. PAYMENT PROVISIONS

The fee in ARTICLE IV, A3, shall be amended to include the following:

Payment to the CONSULTANT for the performance of the professional services as outlined in this Supplemental Agreement shall be made on the basis of the hourly rate fee specified herein; the total including reimbursable expenses shall not exceed \$78,550.00. Refer to Exhibits A and A-1 for the fee summary and schedule.

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the OWNER and the CONSULTANT executes this Supplemental Agreement as of this _____ day of _____, 2009.

ATTEST:

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Karen Sublett, City Clerk

By: _____
Carl Brewer, President
"OWNER"

By: _____
Victor White, Director of Airports

ATTEST:

By: Rodney D. Anderson
Title: Vice-President
HOWARD + HELMER ARCHITECTURE

By: _____
Title: _____

APPROVED AS TO FORM: Mary E. Pheasant Date: _____
Director of Law

HVAC UPGRADE AND REROOF CA FEE SCHEDULE

12/09/08

HOWARD + HELMER

architecture
3500 n. rock road, bldg. 500
wichita, ks 67226

	HOURLY RATE	HOURS	FEE
Architectural			
Principal	\$121	130	\$15,730
Intern Architect	\$85	96	\$8,160
Const. Admin.	\$80	532	\$42,560
Mechanical			
Engineer	\$100	54	\$5,400
CADD Technician	\$75	4	\$300
Electrical			
Engineer	\$100	36	\$3,600
CADD Technician	\$75	4	\$300
Reimbursables			\$2,500
TOTAL FEE (not to exceed)		856	\$78,550

HVAC UPGRADE AND REROOF CONSTRUCTION ADMINISTRATION FEE BREAKDOWN

12/9/08

HOWARD + HELMER
architecture

3500 n. rock road, bldg. 500
wichita, ks 67226

	Weeks	H+H Office Hours	PEC Field & Office Hours	Howard + Helmer Field Observation Hours			Total Hours
				1761 Airport Road	2010 Airport Road	3340 Jabara Road	
November	3	9	6	45	30	0	90
December	5	15	10	80	45	0	150
January	4	12	8	100	0	0	120
February	4	12	10	98	0	0	120
March	4	12	10	62	0	36	120
April	5	15	10	125	0	0	150
May	1	3	0	27	0	0	30
Miscellaneous Tasks							
Pre-Construction Meeting		12	4	-	-	-	16
Record Drawings		20	12	-	-	-	32
Shop Drawings		see note below	28	-	-	-	28
TOTAL HOURS		110	98	537	75	36	856

Note: Howard + Helmer shop drawing review hours are included in monthly office hours breakdown.

**PRELIMINARY ESTIMATES
FOR CITY COUNCIL JANUARY 13, 2009**

- a. 2009 Condemned Sidewalk and Wheelchair Ramps (north of 63rd Street South, east of 151st Street West) (472-84781/132100/N/A) Traffic to be maintained using flagpersons and barricades. (District I,II,III,IV,V,VI) - \$163,360.00
- b. Mead from Central to 3rd Street North to serve Hintons Sub to East Wichita Addition (south of Central, east of Broadway) (472-84561/766158/620497/490176/668004) Traffic to be maintained using flagpersons and barricades. (District VI) - \$741,800.00
- c. Lateral 275, Main 5, Sanitary Sewer #22 to serve West Central Gardens 3rd Addition (north of Central, west of I-235) (468-84239/744200/480888) Traffic to be maintained using flagpersons and barricades. (District IV) - \$89,700.00

City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council Members

SUBJECT: Petition for a Water Distribution System for Cambria Addition (north of Pawnee, East of 143rd St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On June 24, 2008, the City Council approved a Petition to extend a water line to Cambria Addition. In accordance with the City Council policy that assesses a main benefit fee for oversized water lines, the developer has submitted a new Petition. The Petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project extends a water line to a new residential development located north of Pawnee, east of 143rd St. East.

Financial Considerations: The existing Petition totals \$312,000 with \$134,160 paid by special assessments and \$177,840 paid by the Water Utility. The new Petition totals \$320,000 with \$53,163 paid by special assessments and \$266,837 paid by the Water Utility. The Utility share is the cost of oversizing the pipe to serve future development outside the improvement district. The special assessments are based on a main benefit fee of \$.026 per square foot of ownership. The Utility share will be recovered as the fee is assessed to new subdivisions in the future.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing water improvements required for new development.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Attachments: Map, CIP Sheet, Petition and Resolution.

First Published in the Wichita Eagle on January 16, 2009

RESOLUTION NO. 09-022

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90360 (EAST OF 143RD ST. EAST, NORTH OF PAWNEE) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90360 (EAST OF 143RD ST. EAST, NORTH OF PAWNEE) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. 08-053 adopted on February 5, 2008 and Resolution No. 08-329 adopted on June 24, 2008 are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct Water Distribution System Number 448-90360 (east of 143rd St. East, north of Pawnee).

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be Three Hundred Twenty Thousand Dollars (\$320,000) exclusive of the cost of interest on borrowed money. The Benefit District shall be responsible for paying Fifty-Three Thousand One Hundred Sixty-Three Dollars (\$53,163) of the total cost of the foregoing improvements, such amount representing a 2.6 cents per square foot water main assessment fee for the water distribution main which will serve the properties within the Benefit District. The remaining cost of the improvements shall be payable from other available funds of the City, including available and unencumbered funds of the Water and Sewer Utility and proceeds of Water and Sewer Utility Revenue Bonds. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after May 1, 2008, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

CAMBRIA ADDITION

Lots 1 through 9, Block 1

Lots 1 through 7, Block 2

Lots 1 through 9, Block 3

Lots 1 through 15, Block 4

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 9, Block 1; Lots 1 through 7, Block 2; Lots 1 through 9, Block 3; and Lots 1 through 15, Block 4, CAMBRIA ADDITION, shall each pay 1/40 of the total cost of the improvement.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

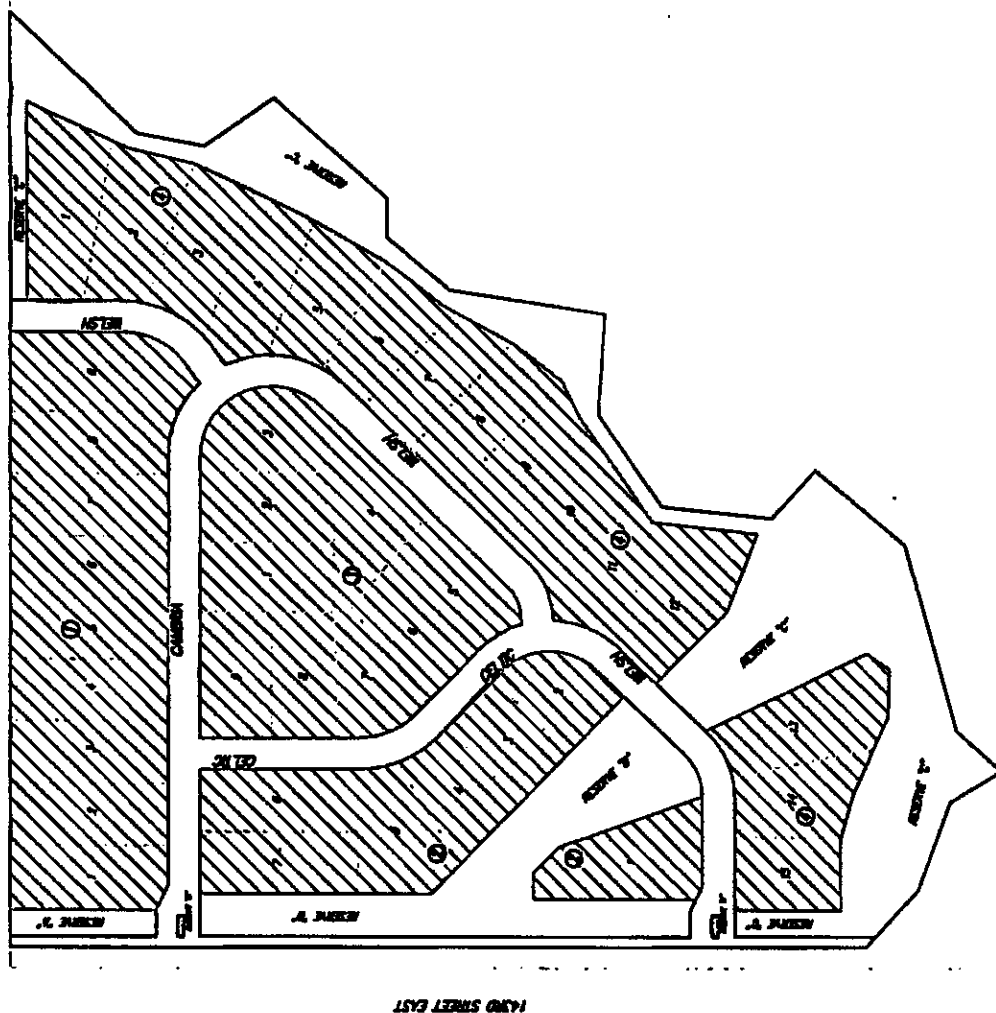
PASSED by the governing body of the City of Wichita, Kansas, this 13th day of January, 2009.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK
(SEAL)

CAMBRIA ADDITION



PROPOSED IMPROVEMENT DISTRICT
 (ACTUAL ALIGNMENT TO BE
 DETERMINED BY DESIGN ENGINEER)

CAPITAL IMPROVEMENT									
PROJECT AUTHORIZATION									
CITY OF WICHITA									
USE: 1. Prepare in triplicate 3. City Manager to sign all copies. 4. File original w/ initiating resolution in City Clerk. 5. Return 2nd copy to initiating department. 6. Send 3rd copy to Controller.									
To Initiate Project To Revise Project									
X									
1. Initiating Department Public Works	2. Initiating Division Eng	3. Date 12/22/2008	4. Project Description & Location Water Distribution System for Cambria Addition						
5. CIP Project Number NI-200424	6. Accounting Number	7. CIP Project Date (Year) 2009	8. Approved by WCC Date						
9. Estimated Start Date	10. Estimated Completion Date		11. Project Revised						
As Required									
12. Project Cost Estimate									
ITEM	GO	SA	OTHER *	TOTAL					
Right of Way									
Paving, grading & const.									
Bridge & Culverts									
Drainage									
Sanitary Sewer									
Sidewalk									
Water		\$53,163	\$266,837	\$320,000					
Other									
Totals		\$53,163	\$266,837	\$320,000					
Total CIP Amount Budgeted									
Total Prelim. Estimate									
13. Recommendation: Approve the Petition and adopt the Resolution									
Remarks: 100 % Petition * Water Utility 448-90360									
12A.									
Platting Required Lot Split Petition Ordered by WCC									
Yes X X									
No									
Division Head for Jim Asanovich 12/22/08									
Department Head 12/22/08									
Budget Officer Kelly Carpenter 12/30/08									
City Manager Date									

RECEIVED

4

WATER DISTRIBUTION MAIN PETITION

Square foot assessment

OCT 30 '08

CITY CLERK OFFICE

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

CAMBRIA ADDITION

Lots 1 - 9, Block 1
Lots 1 - 7, Block 2
Lots 1 - 9, Block 3
Lots 1 - 15, Block 4

448-90360

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed a water distribution main to serve the area described above (the "Benefit District") as well as additional property according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements is Three Hundred Twenty Thousand Dollars (\$320,000.00), exclusive of the cost of interest on borrowed money. The Benefit District shall be responsible for paying Fifty Three Thousand One Hundred Sixty Three Dollars (\$53,163.00) of the total cost of the foregoing improvements, such amount representing a 2.6 cents per square foot water main assessment fee for the water distribution main which will serve the properties within the Benefit District. The remaining cost of the improvements shall be payable from other available funds of the City, including available and unencumbered funds of the Water and Sewer Utility and proceeds of Water and Sewer Utility Revenue Bonds. Said estimated cost as above set forth is hereby increased at the pro rata rate of 1 percent per month from and after May 1, 2008.
- (c) That the Benefit District described above shall be constituted as an improvement district against which shall be assessed the actual cost of the improvement for which the Benefit District is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to

redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:

That the following lots shall each pay 1/40 of the total cost of the improvement district:

CAMBRIA ADDITION

Lots 1 - 9, Block 1
Lots 1 - 7, Block 2
Lots 1 - 9, Block 3
Lots 1 - 15, Block 4


Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building which may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
<u>CAMBRIA ADDITION</u>		10/23/08
Lots 1 - 9, Block 1		
Lots 1 - 7, Block 2		
Lots 1 - 9, Block 3		
Lots 1 - 15, Block 4		

RECEIVED

OCT 30 '08

AFFIDAVIT

CITY CLERK OFFICE

The undersigned, being first duly sworn on his/her oath, states: that he/she circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his/her knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

Chris Bohm
Name

924 N. Main
Mailing Address

Wichita, KS 67203
City/State/Zip

Sworn to and subscribed before me this 30 day of October 2008.

Jean Edwards
Deputy City Clerk



SEAL

CITY OF WICHITA
City Council Meeting
January 13, 2009

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of Land at 4540 South Meridian; 47th Street – 31st Street Road Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On July 1, 2008, the City Council approved the Meridian Street between 47th St. South and 31st St. South project. Meridian will be widened between 33rd St. South to 47th St. from two-lanes to five-lanes. The center lane will be a two-way turn lane, drainage ditches will be eliminated and traffic signals will be upgraded in addition to new traffic signals will be installed at the I-235 access ramps. Partial acquisitions for 18 parcels along the Meridian corridor are necessary. These parcels consist of vacant land, single-family residences and commercial improvements.

Analysis: This particular acquisition is a 20-foot wide strip of land along the east side of Meridian. The property is improved with a single-family residence. The improvements are not impacted by the project. The owner rejected the appraised value of \$1,683, or \$0.50 per square foot and agreed to convey the necessary right-of-way for \$2,325, or \$0.75 per square foot. This amount is supported by an appraisal the seller had done in May 2008.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of \$2,600 is requested. This includes \$2,325 for acquisition and \$275 for closing costs and title insurance.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through a major transportation corridor.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Tract map, aerial and real estate purchase agreement.

EXHIBIT

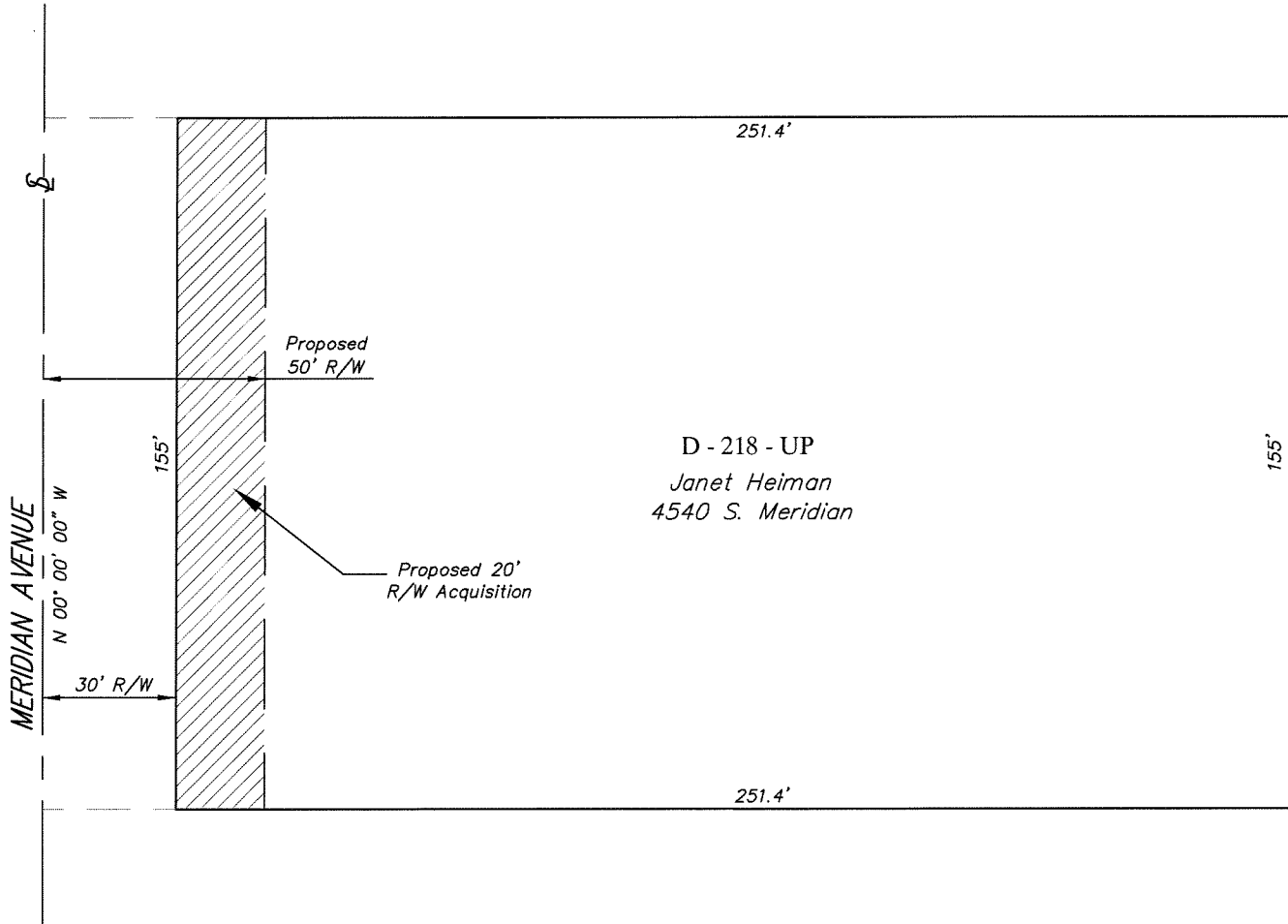
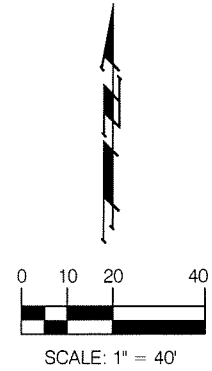
LEGAL DESCRIPTION:

A Proposed 20.00 feet Right-of-Way Acquisition in Wichita, Sedgwick County, Kansas, Described as Follows:

The East 20.00 feet of the West 50.00 feet of the following described tract of land:

The North 155 feet of the South 310 feet of the West 281.4 feet of the North half of the SW quarter of Section 18, Township 28 S, Range 1 E, of the 6th P.M., Sedgwick County, Kansas.

Containing 3,100.0 Sq. Ft., more or less.



DATE: 8/5/08



Project Number 05-10-E396

F:eng/47th South/Exhibits/Heiman.dwg



4540 South Meridian



City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council

SUBJECT: Consent to Sale of Project (Cimarron Acquisition, L.P.) (District V)

INITIATED BY: Office of Urban Development

AGENDA: Consent

Recommendation: Approve the consent.

Background: On December 3, 1996, City Council approved issuance of Multi-Family Housing Revenue Bonds in the amount of \$2.5 million to Cimarron Acquisition, L.P. ("Cimarron") to finance the acquisition and rehabilitation of the Cimarron Apartments, a multi-family housing project for low and moderate income families, located at 734 North Ridge Road. On August 19, 1997, bonds were refinanced to take advantage of the Fannie Mae mortgage insurance program, which reduced financing costs on the project. Cimarron Apartments took title to the property in 1997 and the bonds were secured through a sublease with the City. Cimarron Apartments are now being sold to Cimarron Partners, LLC, a single-asset real estate holding company. The City has been requested to provide consent to the sale as conditioned by the bond terms.

Analysis: Cimarron Partners, the purchaser, is owned by local investors Jeff Amend and Brent Dupont; they own and manage a number of apartment units, individual residential units and shopping centers in the Wichita area. They plan to close on the property immediately and retire the bonds thirty days later, according to Fannie Mae procedures.

Under the 1997 Regulatory Agreement between the City and Cimarron, it is necessary for the City to consent to the sale or transfer of the project to another party. Sale proceeds will be used to pay off the mortgage held by Fannie Mae and Fannie Mae will then transfer funds to the Trustee to payoff bondholders. The attached Consent of Issuer will not be executed and delivered until the conditions below are met:

- 1) Proof to the City and the Trustee that Cimarron Partners, LLC, has assumed the duties and obligations under the Regulatory Agreement and the Mortgage Loan and related documents;
- 2) an opinion of the purchaser's counsel that the obligations under the Regulatory Agreement and the Mortgage Loan and related documents have been assumed; and
- 3) an opinion of the City's Bond Counsel that the sale will not adversely affect the bondholders from a tax standpoint.

Financial Considerations: There is no cost to the City resulting from its consent to the sale of Cimarron Apartments. Cimarron Partners will pay the City the \$1,000 purchase price for the project before bonds are retired.

Goal Impact: Economic Vitality and Affordable Living. Support of multi-family facilities available to low and middle incomes assures the availability of affordable housing.

Legal Considerations: The City Attorney's Office has approved the attached Consent of Issuer as to form. Additional documents may need to be executed by the City in order to complete the transfer of ownership of the property. Any further documents required will be approved as to form before execution. The 1997 bond documents include a Land Use Restriction Agreement (LURA) which sets household income requirements for the tenants of the apartment complex and which must remain in effect under federal regulation, regardless of a change in ownership.

The City's bond counsel, Kutak Rock, will provide an opinion that the sale of the project will not adversely impact the tax-exempt status of the 1997 bonds.

Recommendations/Actions: It is recommended that the City Council approve the Consent of Issuer to the sale of Cimarron Apartments to Cimarron Partners, LLC subject to stated conditions, authorize the execution and delivery of such further documents required to release the property subject to approval by the City Attorney's Office, and authorize the necessary signatures.

Attachments: Consent of Issuer

CONSENT OF ISSUER

Re: \$2,000,000 Multifamily Housing Refunding Revenue Bonds (Cimarron Apartments Projects), Series No. VIII-A, 1997

The City of Wichita, Kansas (the “Issuer”), as Issuer of the referenced bonds pursuant to the Indenture of Trust, dated as of September 1, 1997 (the “Indenture”), between the Issuer and the Security Bank of Kansas City, as trustee (the “Trustee”), and as party to the Amended and Restated Land Use Restriction Agreement, dated as of September 1, 1997 (the “Regulatory Agreement”), among Cimarron Acquisition, L.P. (“Partnership”), the Issuer and the Trustee, (a) hereby acknowledges receipt of the following in accordance with Section 10 of the Regulatory Agreement:

(i) reasonable evidence satisfactory to the Issuer and the Trustee that Cimarron Partners, L.L.C., the purchaser or transferee of the Project (the “Purchaser”), has assumed, in writing and in full, the Partnership’s duties and obligations under the Regulatory Agreement and the Mortgage Loan and related documents accruing or arising after the date of the transfer (the “Assignment”);

(ii) an opinion of counsel to the Purchaser that the Purchaser has duly assumed the obligations of the Partnership under the Regulatory Agreement and the Mortgage Loan and related documents and that such obligations and the Regulatory Agreement and the Mortgage Loan and related documents are binding on the Purchaser; and

(iii) an opinion of Bond Counsel that such sale, transfer or other disposition will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes or the exemption of interest on the Bonds from income taxes of the State of Kansas, and

(b) hereby consents to the sale and transfer of the Project to the Purchaser and the Assignment pursuant to Section 10 of the Regulatory Agreement. Capitalized terms used herein but not defined have the meaning therefore set forth in the Regulatory Agreement.

This 15th day of January, 2009.

CITY OF WICHITA, KANSAS

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

[SEAL]
Approved as to Form:

Gary E. Rebenstorf, City Attorney

**CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
DECEMBER 2008**

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Animal Bags	12/31/2009	Massco Inc.	Environmental Services	1/1/2008 - 12/31/2008	1 - 1 year option
City Maps	12/31/2009	Kansas Blue Print Co., Inc.	Various	1/1/2003 - 12/31/2003	Annual basis
COBRA Administrator for 2008	12/31/2009	Beyond Benefits Inc.	Finance	1/15/2008 - 12/31/2008	1 - 1 year options
Domestic Violence Service	12/31/2009	Kansas Legal Services, Inc.	City Manager	1/1/2003 - 12/31/2003	Annual basis
Education Services (filed under Defined Contribution Plan)	12/31/2008	NestEgg Consulting, Inc. - Educational Services	Finance	1/1/2004 - 12/31/2005	1 - 1 year option
Heating and/or Air Conditioner Repair Service	12/31/2009	DEN Management Co., Inc.	Public Works	1/8/2008 - 12/31/2008	1 - 1 year option
Investment Consulting Services for WER and Police and Fire	12/31/2009	Callan Associates, Inc.	Finance	1/1/2006 - 12/31/2006	1 - 1 year option
Janitorial Services-Central Public Library-Group 1, Env. Svcs. & Animal Control Office-Group 2, Outside Park Restrooms Various Locations-Group 5 and Athletic Field Restrooms-Group 6	12/31/2009	Wilson Building Maintenance, Inc.	Public Works	1/1/2008 - 12/31/2008	1 - 1 year option
Legal Services - City Worker's Compensation Claims	12/31/2009	Edward D Heath Jr.	Law	1/1/2007 - 12/31/2007	Annual basis
Liquid Phosphate	12/31/2009	Carus Phosphates, Inc.	Water Utilities	1/1/2008 - 12/31/2008	1 - 1 year option
Physical/Cognitive Evaluation for Persons with Disabilities	12/31/2009	Performance Assessment Center, LLC	Wichita Transit	1/14/2005 - 12/31/2008	1 - 1 year option
Victim's Rights Services	12/31/2009	Correctional Counseling of Kansas	Law	12/30/2003 - 12/31/2004	Annual basis
Windows - Thermal Break Primary	12/31/2009	Columbia Industries Inc.	Housing & Community Services	1/1/2008 - 12/31/2008	1 - 1 year option

**PROFESSIONAL CONTRACTS UNDER \$25,000
PURCHASE ORDERS FOR DECEMBER 2008**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
KE Miller Engineering PA	PO801336	Engineering Consulting	9,100.00		
Baughman Co.	PO801425	Engineering Consulting	7,600.00		
Burns & McDonnell	PO801457	Environmental Consulting	3,990.00		

**ANNUAL MAINTENANCE CONTRACTS OVER \$25,000
DIRECT PURCHASE ORDERS FOR DECEMBER 2008**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		

**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council

SUBJECT: 2009 Self-Insurance Health Insurance Program-Plan Amendment NPAR-6

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Amendment.

Background: On November 21, 2006, the City Council approved the Coventry Health Care, Inc. Self-Insurance quote for 2007-2009 be accepted and authorized staff to negotiate a Third Party Administrator (TPA) Agreement with Coventry Health Care, Inc. to be effective January 1, 2007. The reason for changing to a Self-Insured Health Plan from a fully insured Health Plan was to take advantage of plan savings generated from not paying premium tax and payment for “risk.” The City Council approved all plan efficiencies derived from plan savings to initially be used to absorb future risk potential from self-insuring and additionally to maintain the stability of future health insurance rates.

Analysis: Three separate Agreements have been developed to consummate the Self-Insured Health Plan. These include:

- 1) Purchase of a \$400,000 stop-loss insurance policy to keep high cost claimants from materially affecting the Self-Insurance Fund. In addition, the known large-claim claims would be subject to the \$500,000 yearly maximum on medical.
- 2) An Administrative Services Agreement with Coventry Health Care, Inc. to serve as the Third Party Administrator (TPA).
- 3) A Group Health Benefit Plan Summary, Benefit Eligibility Policy Handbook and the Summary Plan Description, which are documents that were sent to all Plan participants. These documents delineate what is covered by the Plan, how to file claims, and how to file an appeal.

Summary Plan Description Amendment 2008 NPAR-6 covers the issue of non-payment for Preferred Provider Organization (PPO) out of network services when it is beyond the member's control. The City's Benefits Consultant, Aon Consulting, has been working with Coventry on this item. This discussion has convinced staff to address this item through a formal plan amendment. The Amendment to the City's Summary Plan Description allows Coventry the flexibility to address this issue as a part of their payment process, rather than changing the appeal process. The attached amendment is designed to do that. The language in the amendment says that when a member is at a network facility or provider and that facility or provider orders something from a non-participating provider (i.e. lab) then the plan will pay at the in-network level.

Financial Considerations: The cost to the City's Self-Insurance Health Plan will be minimal and will alleviate the need for City employees to appeal to Coventry Health Care to pay legitimate medical Plan costs under the in-Network rate.

Goal Impact: The employee health and prescription drug program is a part of the Internal Perspective goal.

Page Two

The City's strategic health care plan combines employee Wellness programs, self-insured health and Rx plans (which provide the City with much more flexibility), disease management and nurse coaches to minimize future health insurance premium increases for the employees and the City.

Legal Considerations: The Plan Amendment has been approved as to form by the City Attorney's office. The Plan Amendment is effective January 1, 2009.

Recommendation/Action: It is recommended that the City Council approve Plan Amendment 2008 NPAR-6 and authorize the appropriate signatures.

PLAN AMENDMENT

Employer: City of Wichita

Effective Date: January 1, 2009

Plan Name: City of Wichita Group Health
Benefit Plan

Amendment Number: 2008 NPAR - 6

In accordance with GENERAL PROVISION: Amendment or Termination, as specified in the Summary Plan Description, the Plan Document is hereby amended to read as follows:

As stated herein, the provision stated below is amended and added as follows.

Non-Participating Provider services rendered at a Participating Provider Facility

When You incur a Covered Charge by a Non-Participating Provider as a result of treatment for a sickness or injury rendered by a Participating Provider and/or Participating Provider Facility, Covered services are subject to the Participating Provider level of benefit shown on the *Schedule of Benefits*. Any remaining expenses charged to You due to the difference between the Non-Participating Provider's Allowable Charge and Non-Participating Provider's billed charge are reimbursed by the Plan.

Except as stated herein nothing other than the specified provisions in this document shall be deemed altered.

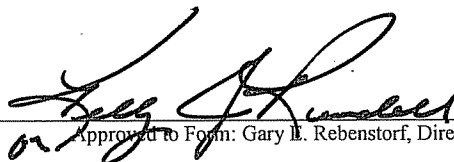
Approved by:

Carl Brewer, Mayor, City of Wichita

Date

ATTEST: Karen Sublett, City Clerk

Date



Approved to Form: Gary L. Rebenstorf, Director of Law

11/9/08
Date

City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council

SUBJECT: 2009 Self-Insured Health Program-Stop Loss Insurance Policy

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the 2009 Stop Loss policy.

Background: On November 21, 2007, the City Council approved a 2007-2009 Self-Insured quote from Coventry Health Care Insurance, Inc. and authorized staff to negotiate a Third Party Agreement (TPA) with Coventry to be effective January 1, 2007. On September 25, 2007, the City Council approved the 2007 Third Party Agreement and approved renewal of Coventry Health Care, Inc. to provide medical and prescription drug services. The Third Party Agreement has been extended for 2009. The Third Party Agreement requires the City purchase and maintain Stop-Loss insurance so long as the Third Party Agreement is in effect.

The reason for changing to a Self-Insured Health Plan from a fully insured Health Plan was to take advantage of plan savings generated from not paying premium tax and payment for “risk”. The City Council approved all plan efficiencies derived from plan savings to initially be used to absorb future risk potential from self-insuring and additionally to maintain the stability of future health insurance rates.

Analysis: The Stop Loss insurance policy is an integral part of the self-insured health program. Purchase of a \$400,000 stop-loss insurance policy is designed to keep to keep high cost claimants from materially affecting the Self-Insurance Fund. In addition, the known large-claim claims would be subject to the \$500,000 yearly maximum on medical.

Financial Considerations: Coventry Health and Life Insurance Stop Loss Policy renewal increases the per employee per month cost from \$11.72 in 2008 to \$12.82 for 2009. Coventry has guaranteed that their TPA administrative fees will increase by no more than 4% per annum for 2008 and 2009, exclusive of pass through fees.

Goal Impact: The employee health and prescription drug program is a part of the Internal Perspective goal. The City’s strategic health care plan combines employee Wellness programs, self-insured health and Rx plans (which provides the City with much more flexibility), disease management and nurse coaches to minimize future health insurance premium increases for the employees and the City.

Legal Considerations: The Stop Loss Policy has been approved as to form by the City Attorney’s office.

Recommendation/Action: It is recommended that the City Council approve the \$400,000 Stop Loss insurance policy and authorize the appropriate signatures.



City of Wichita

(Herein and after called the Policyholder)

POLICY NUMBER: 100321

EFFECTIVE DATE: 01/01/2009 – 12/31/2009

DATE OF ISSUE: 11/11/08

STATE OF ISSUE: Delaware

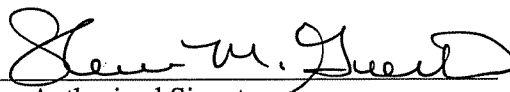
Throughout this Policy, "you" and "your" refer to the Policyholder.

Coventry Health and Life Insurance Company (hereinafter called "the Company") will pay you when you have a claim and provide other rights and privileges, subject to all terms and conditions of this Policy.

This Policy is issued in consideration of the Policyholder's application and your payment of premiums.

This Policy is delivered in the State of Issue, and is governed by the laws of that state. Your Application for Excess Loss Indemnity Coverage, and executed Disclosure, along with a copy of your Employee Benefit Plan document, are parts of this Policy.

This Policy is signed for Coventry Health and Life Insurance Company by:

By 
Authorized Signature

Title President

Date Nov. 17, 2008



EXCESS LOSS INDEMNITY GROUP POLICY

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Insuring Provisions / Definitions	3
Exclusions and Limitations of Liability / Premiums / Renewals	4
Amendments	5

APPLICATION FOR EXCESS LOSS INDEMNITY COVERAGE
and
SCHEDULE OF INSURANCE

Policy Period From: 1/1/09 To : 12/31/09
 [Inception date] [Expiration Date]
 (12:01 A.M. Standard Time at the Policyholder's Address)

GENERAL INFORMATION

1. Full Legal Name of Policyholder: City of Wichita
Principal Address: 455 N. Main
Wichita, KS 67202
2. Nature of Business:
☐ Corporation ☐ Partnership ☐ Proprietorship ☒ Other: Municipality
3. Full Legal Name of Claims Administrator: Coventry Health Care of Kansas
(Policyholder's Appointed Plan Supervisor)
Address: 8320 Ward Parkway
Kansas City, MO 64114
4. If employee benefit plans of subsidiary or affiliated companies (companies under common control through stock ownership, contract, or otherwise) are to be included, list names and addresses of such companies and the nature of their business. n/a
5. Initial Enrollment Information. Please provide the number of:

	Active	Retired	COBRA
<input checked="" type="checkbox"/> Single <input type="checkbox"/> Employee	<u>988</u>	<u>204</u>	<u>19</u>
<input checked="" type="checkbox"/> Family <input type="checkbox"/> Employee & one dependent	<u>1820</u>	<u>62</u>	<u>2</u>
<input type="checkbox"/> Employee & dependents			
6. Excess Loss Indemnity Policy Provisions
 - A. **Aggregate Excess Risk Insurance**
 - (1) Company Limit of Liability: n/a% of paid Aggregate Losses which are in excess of the Aggregate Attachment Point, subject to a maximum limit of \$n/a.

In addition, the amount per Covered Person chargeable to Aggregate Losses is subject to a maximum limit of \$n/a, plus any amount applied to the aggregating specific deductible when this option is purchased.
 - (2) Aggregate Attachment Point
 - a. Monthly Attachment Factor: \$ n/a [single], \$ n/a [Family], *Note that rates could also be expressed on an Employee Only, Employee and Spouse, Employee and Dependents, or composite basis, or other basis: _____.*
 - b. Minimum Aggregate Attachment Point of \$ n/a
 - c. Maximum Run-in Limit: \$n/a

- (3) Maximum Aggregate Corridor Basis: n/a%
Minimum Aggregate Corridor Basis:
- (4) Monthly Aggregate Factors:
☐ Single ☐ Employee n/a
☐ Family ☐ Employee & one dependent _____
☐ Employee & dependents n/a
- (5) Aggregate Premium Rate: ☐ Per Employee Per Month \$n/a
☐ Annual Premium \$n/a
- (6) Aggregate Claims Basis
☐ Paid during Policy Period; Incurred during Policy Period.
☐ Paid during Policy Period or, during the _____ months immediately thereafter; Incurred during Policy Period.
☐ Paid during Policy Period; Incurred during Policy Period, or during the _____ months immediately prior thereto. (Payments for expenses incurred during the _____ month preceding the effective date of coverage shall be limited to a maximum amount of _____, all covered persons combined.)
☒ Other (as indicated): n/a.
- (7) Covered Aggregate Plan Benefits (Applicable only if an entry is specified herein.)
☐ Medical;
☐ Prescription Drug Card; ☐ Other (as indicated) _____.
- (8) Loss Reduction for Insured Hospitals:

If the Policyholder named herein is a licensed hospital, benefits payable under any applicable Employee Benefit Plan for expenses incurred as the result of services and charges of the Policyholder shall be multiplied by n/a% when determining paid Aggregate Losses.

B. Specific Excess Risk Insurance

- (1) Company Limit of Liability: 100% of paid Specific Losses which are in excess of a Specific Deductible \$400,000, subject to a maximum limit per Covered Person of \$1,600,000, less any amount applied to the aggregating specific deductible when this option is purchased.
- (2) Lasering: A higher specific Deductible amount will apply to payments for covered expenses incurred by the following Covered Person(s):
- | Claimant Name | Employee Name | Specific Deductible Amount |
|------------------------|------------------------|----------------------------|
| <u>Tyler L. Whaley</u> | <u>Jimmy W. Scotin</u> | <u>\$500,000</u> |
| _____ | _____ | _____ |

The following limitations will apply to payments for covered expenses incurred by the following Covered Person(s):

Claimant Name	Employee Name	Type of Claims Limitation
_____	_____	_____
_____	_____	_____

- (3) Specific Monthly Premium Rate:
- | | | |
|--------------------------------------------|---------------------------------------------------|-------------------|
| <input checked="" type="checkbox"/> Single | <input type="checkbox"/> Employee | \$12.82 Composite |
| <input checked="" type="checkbox"/> Family | <input type="checkbox"/> Employee & one dependent | \$ _____ |
| | <input type="checkbox"/> Employee & dependents | \$ _____ |
- (4) Specific Claims Basis:
- ☐ Paid during Policy Period; Incurred during Policy Period.
- ☒ Paid during Policy Period or, during the [3] months immediately thereafter; Incurred during Policy Period.
- ☐ Paid during Policy Period; Incurred during Policy Period, or during the [_____] month period immediately prior thereto.
- ☐ Other (as indicated): _____
- (5) Covered Specific Plan Benefits (Applicable only if an entry is specified herein.)
- ☒ Medical;
- ☒ Prescription Drug Card; ☐ Other (as indicated) _____.
- (6) Loss Reduction

Benefits payable under the applicable Employee Benefit Plan for expenses emanating from n/a, or any affiliates or subsidiary hospitals will accumulate and be reimbursed at n/a%. Non-emergency services generating expenses emanating from any other institutions will accumulate and be reimbursed at n/a% under this policy.

Benefits payable under the applicable Employee Benefit Plan for expenses emanating from n/a, or any affiliates or subsidiary will be based on an average discount to fee's of at least n/a%.

7. Product Options:
- | | | | |
|-------------------------------------------|---------------------------------------------------------------------|-----------------------|----------|
| Aggregating Specific | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Additional Deductible | \$ _____ |
| Aggregate Accommodation | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |
| Terminal Liability ("Extended Aggregate") | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |
| Terminal Liability (Specific) | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | |
| Advanced Funding | <input checked="" type="checkbox"/> Yes | | |
8. Managed Care Network name(s) with employee % in each network if multiple networks are offered; Coventry Health Care of Kansas PPO Network, Coventry Transplant Centers of Excellence, Coventry National Network.
9. Amounts accompany this application as an advance payment on the premium for insurance applied for: \$n/a (Total).
10. It is understood and agreed as conditions precedent to the acceptance of this application that the Policyholder:
- A. Has conducted a thorough review of experience developed under its Employee Benefit Plan, and as a result thereof represents that there are no Covered Persons with known disabilities, or other known conditions expected to result in paid claims in excess of the Specific Deductible Amount during the Policy Period, other than those disclosed on the attached Disclosure Statement.
- B. Represents that all underwriting information provided to the Company by or on behalf of the Policyholder is complete and accurate.
- C. Will provide a copy of the executed Employee Benefit Plan Document for incorporation into the Policy within 30 days of the coverage effective date.

This ASO Stop Loss coverage is contingent upon item 10 above and:

1. Policyholder's review, completion and execution of this application and CH&L's review approval and execution of this application.
2. Policyholder's completion of the Disclosure Statement and CH&L's review and approval of the Disclosure Statement. (Not Applicable for CH&L Renewals or existing Coventry Health Care clients.)
3. CH&L's receipt of Binder payment. (Not Applicable for CH&L Renewals or existing Coventry Health Care clients.)

Once the contingencies have been satisfied, coverage will be in effect for the period shown in stated Policy Period. Renewal of this Policy for a further period must be submitted on a new form.

Accepted for the Policyholder:

Policy holder

By _____
Authorized Signature

Title _____

Date _____

Accepted for Coventry Health & Life Insurance Company:

By *Steven M. Gueid*
Authorized Signature

Title *President*

Date *Nov. 17, 2008*

Attest: _____
Karen Sublett, City Clerk

Date

Approved as to form: *Gary E. Rebenstorf, Jr.*
Gary E. Rebenstorf, City Attorney

12/24/2008
Date

GENERAL PROVISIONS

AMENDMENT

This Policy may be amended from time to time by mutual consent of you and the Company. Any such amendment will be without prejudice to any claim arising prior to the date of change. No agent or other person, except the President, a Vice President or the Secretary of the Company has authority to waive any conditions or restrictions of this Policy; to extend the time for paying a premium; or to make or modify this Policy. No change in this Policy will be valid unless evidenced by an endorsement to it signed by you and by one of the aforesaid officers of the Company.

PAYMENT OF PREMIUMS

All premiums must be remitted to the Company at its Administrative Office, or to the office of its designated Underwriting Manager. Except as otherwise provided under the Section "Grace Period", your coverage under this Policy will automatically terminate if any premium is not paid when due. Compliance with payment terms required by our Underwriting Manager will be deemed compliance with this paragraph.

ERISA

The Company is acting only as a provider of insurance to you. We are not and will not be considered a fiduciary. The Company assumes no obligations required by the Employee Retirement Income Act of 1974, as amended. The Company has no responsibility or obligation to directly reimburse any Covered Person. This contract will not create any right or legal relationship between any Covered Person and us. The Company's sole liability under this Policy is to you.

GRACE PERIOD

If any premium is not paid in full on or prior to its due date, a grace period of 31 days following the premium due date shall be granted for the payment of that premium. Your coverage will continue in full force and effect during the grace period. You will be liable to the Company for all premiums remaining unpaid on the date of termination of your coverage, including premium for the days of the grace period during which your coverage remained in force.

ENTIRE POLICY

This entire Policy consists of 1) the pages of this Policy, including any amendments; 2) your Application and Disclosure Statement as well as any supplemental applications, a copy of which is attached to this Policy; and 3) Employee Benefit Plan document. All statements made by you or any employee are, in the absence of fraud, understood to be representations and not warranties. Such statement will not be used to contest coverage unless contained in the application or supplemental application.

CLERICAL ERROR

Clerical error, regardless of who made the error, will not invalidate coverage validly in force or validly terminated. Clerical errors should be reported and corrected. The Company will make appropriate adjustments in the premiums due or claims eligible for reimbursement under this Policy.

GENERAL PROVISIONS (Continued)

POLICY PERIOD: DURATION

Your Policy period will begin on the Inception Date shown in your Schedule of Insurance. It will end, and all coverage provided by the Policy with respect to you will cease, on the earliest of the following dates:

1. The Expiration Date shown in your Schedule of Insurance;
2. The end of the grace period if any premium remains unpaid;
3. The date your Employee Benefit Plan terminates, or the date it changes, except as provided in Payment of Premium Provision above.;
4. The first day of any month specified by you following 30 days prior to written notice to the Company;
5. The date the Plan Supervisor named in your Schedule of Insurance is changed, except as provided in the Plan Supervisor Provision stated below.

PLAN SUPERVISOR

You have appointed the Plan Supervisor named in your Schedule of Insurance to perform administrative services for your Employee Benefit Plan, including payment of claims.

The Plan Supervisor is your agent and is not the agent of the Company. The Company shall not be liable for any acts or omissions of your Plan Supervisor. Any requests or notices the Company sends to your Plan Supervisor will be deemed a request or notice to you.

You will enter into a written agreement with the Plan Supervisor. A copy of the agreement will be furnished to the Company prior to the inception of your Policy Period, or as soon as reasonably possible thereafter. The agreement will require your Plan Supervisor to fulfill the following duties and responsibilities:

1. Administration and adjudication of all claims under the Employee Benefit Plan and verification of their validity, accuracy and computation;
2. Maintenance of accurate records of all claim payments;
3. Maintenance of separate records of expenses not covered;
4. Proper handling of and accounting for monies transmitted to and from you and the Company;
5. Payment of all claims within 60 days of the date that satisfactory proof of loss has been established; failure to do so shall exempt such claim amounts from applying towards satisfaction of the deductible and for requested reimbursements exceeding the deductible; unless the Company has agreed, in writing, to waive this exemption.

GENERAL PROVISIONS (Continued)

6. Submission to the Company within 30 days after the close of each Policy month, on a form supplied by the Company, a report containing the following information:
 - a. The total number of employees covered for the month reported; and
 - b. The attachment point for the month reported; and
 - c. A statement of paid claims for the month reported; and
7. Satisfaction of all reporting and proof requirements reasonably imposed by the Company.

The Plan Supervisor named in your Schedule of Insurance may not be changed unless prior written consent is obtained from the Company.

NOTICE OF CLAIM

You are required, either directly, or through your Plan Supervisor to provide written notice to the Company within 30 days after the close of each policy month when Specific Losses reach or exceed 50% of the Specific Deductible Amount and/or a Covered Person has been diagnosed with a potentially catastrophic illness.

When Specific Losses exceed the specific deductible amount, a Specific Excess Reimbursement Request must be immediately submitted to the Company. Such request will be provided on a report agreed to by the Company, and shall include that information reasonably required by the Company to establish satisfactory proof of loss. Such information shall include but not be limited to:

1. A completed Specific Excess Reimbursement Request;
2. Proof of the Covered Person's eligibility under the Employee Benefit Plan;
3. Proof of payment under your Employee Benefit Plan for those covered expenses being applied towards satisfaction of the specific deductible amount and for which reimbursement is being requested; and
4. Copies of all medical reports pertaining to this request for reimbursement if requested by the Company.

RIGHT OF RECOVERY ("Subrogation")

You may be entitled to recover from third parties for payments you have made to, or on behalf of, persons covered under your Employee Benefit Plan. If you recover from a third party, you can use the recovered amount to meet a deductible amount or an attachment point. The Company will not reimburse you for the recovered amount. If the Company has reimbursed you for all or part of a particular payment and you later recover that payment from a third party, you must repay the Company to the extent that it reimbursed you, regardless of whether your coverage is still in force on the date the person recovers. Your repayment may be reduced by the reasonable and necessary expenses you have paid in recovering from the third party.

If you fail to pursue a valid claim for a covered expense against a third party and we are required to reimburse you for such covered expense, we shall be subrogated to your rights to pursue such claim.

GENERAL PROVISIONS (Continued)

LEGAL ACTION

Unless in accordance with the Arbitration terms provided below, an action at law or in equity will be brought to recover on this Policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this Policy. No such action will be brought after the expiration of 5 years after the time written proof of loss is required to be furnished.

If any time limitation of this Policy with respect to bringing an action at law or in equity to recover on this Policy is less than that permitted by the law of the State of Issue, that limitation is hereby extended to agree with the minimum period permitted by that law.

ACCESS TO RECORDS

The Company reserves the right to inspect and audit all records maintained by you and your Plan Supervisor with respect to your Employee Benefit Plan and with respect to your Policy. These records must be available to the Company or its designated Underwriting Manager for determination of plan benefits, proof of loss and proof of payment of plan benefits. Inspections and audits will be done during normal business hours.

ARBITRATION

Any controversy or claim arising out of or relating to this Policy, or the breach thereof, shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association, with the stipulation that the arbitrator(s) shall abide by the terms of the Policy and shall apply rules of law applicable thereto. A single arbitrator shall decide all matters. Judgement upon the award rendered by the arbitrator may be entered in any court having jurisdiction. This provision shall survive termination or expiration of this Policy. The parties hereto may alter any of the terms of this provision only by express written agreement, although such alteration may be before or after any rights or obligations arise under this provision.

TAXES

You shall hold the Company harmless from any state premium taxes which may be assessed against the Company with respect to benefits paid under your Employee Benefit Plan or your Policy, and shall reimburse us for such taxes, if any.

MISREPRESENTATION

In effecting this Policy, the Company shall be entitled to rely upon information provided by you or on your behalf. If that information proves not to have been correct as submitted, the Company has the right to rescind coverage provided to you under this Policy as of its effective date or as of its last annual renewal date, if later. In lieu of rescission, the Company has the right to adjust the specific deductible amount, the premium rates, the Aggregate Attachment Factor and the Minimum Aggregate Attachment Point to those levels that the Company would have established if the Company had been provided with the correct information.

GENERAL PROVISION (Continued)

CHANGE OF PLAN AND EXPOSURE

If you change your Employee Benefit Plan while this Policy is in force or if your obligation otherwise increases with regards to payment of covered expenses, the change or increase is not binding on the Company unless you give the Company at least 31 days prior written notice of the date the change goes into effect. If your obligation increases, the Company has the right to increase the Premium Rate.

If the number of employees or members who are Covered Persons under the Plan increases or decreases by 10% from the number used to calculate the Premium Rate, you must notify the Company within 31 days after the number has changed. The Company will have the right to amend any of the items appearing in the Schedule of Insurance, including the Premium, the Aggregate Attachment Point and the Specific Deductible Amount.

In addition, the Company reserves the right to recalculate the premium rate and the aggregate attachment factor retroactively for the Policy Period, if there is more than a 10% variance between:

1. The average monthly paid claims under the Employee Benefit Plan for the last two months of the prior Policy Period; and
2. The average monthly paid claims under the Employee Benefit Plan for the first ten months of the prior Policy Period.

In the event that the average claims for the last 2 months of the 12 month period immediately preceding the Inception Date of this Policy exceed 125% of the average claims of the first 10 months of that 12 month period, the Company reserves the right to change the rates and factors for this Policy Period.

WORKERS' COMPENSATION INSURANCE

Coverage provided under this Policy applies only to covered expenses under your Employee Benefit Plan for non-occupational accidents or illnesses. It is not the intent of this Policy to provide benefits for covered expenses provided by your Employee Benefit Plan in lieu of Workers' Compensation Insurance.

INSOLVENCY

The insolvency, bankruptcy, financial impairment, receivership, voluntary plans of arrangement with creditors, or dissolution of the Policyholder or the designated Plan Supervisor will not impose upon the Company and liability other than the liability defined in this Contract. In particular, the insolvency of the Policyholder will not make the Company liable to the creditors of the Policyholder, including Covered Persons under the Employee Benefit Plan.

INSURING PROVISIONS

A. AGGREGATE EXCESS RISK INSURANCE:

The Company will pay you a percentage of the amount by which the Aggregate Losses you have paid under your Employee Benefit Plan exceed your Aggregate Attachment Point.

The percentage the Company will pay and the Company's limit of liability are stated in your Schedule of Insurance. The Company will pay you as soon as reasonably possible after the end of your Policy Period, subject to satisfactory proof of loss.

B. SPECIFIC EXCESS RISK INSURANCE:

The Company will pay you a percentage of the amount by which the Specific Losses you have paid under your Employee Benefit Plan exceed the Specific Deductible Amount stated in your Schedule of Insurance.

The percentage the Company will pay and the Company's limit of liability are stated in your Schedule of Insurance. The Company will pay you as soon as reasonably possible after you have requested reimbursement, subject to satisfactory proof of loss.

DEFINITIONS

A. MONTHLY ATTACHMENT FACTOR

The number which is multiplied by the number of covered Single/Family, or Employee/Employee & Spouse and Dependent Units, each month of the Policy Period, to determine the Aggregate Attachment Point.

B. AGGREGATE LOSSES

Aggregate Losses means the total amount of money you have actually paid during your Policy period, and during the first n/a months thereafter, to, or on behalf of, all persons covered under your Employee Benefit Plan (herein called "Covered Persons"). Aggregate Losses, however, cannot include any payments you made to, or on behalf of, a Covered Person:

1. For covered expenses which are reimbursable under the Specific Excess Risk Insurance provision;
2. Which were in excess of the maximum amount chargeable as stated in your Schedule of Insurance; or
3. Which were incurred prior to the inception date or after the expiration date of your Policy Period.

An expense shall be deemed to be incurred by a Covered Person on the date that the service; treatment; or supply is provided.

INSURING PROVISIONS (Continued)

Your payments must have been made in accordance with the provisions of your Employee Benefit Plan document currently filed with the Company and included as a part of this Policy.

C. SPECIFIC LOSSES

Specific Losses means the total amount of money you have actually paid during your Policy Period, and during the first 3 months thereafter, to, or on behalf of, any one person covered under your Employee Benefit Plan. Specific Losses, however, cannot include any payments you made to, or on behalf of, a covered person which were incurred prior to the inception date or after the expiration date of your Policy Period.

An expense will be deemed to be incurred by a Covered Person on the date that the service; treatment; or supply is provided.

Your payments must have been made in accordance with the provisions of your Employee Benefit Plan document currently filed with the Company and included as a part of this Policy.

D. MINIMUM AGGREGATE ATTACHMENT POINT

For the Policy period, the benefit amount specified in the Schedule of Insurance, which is wholly retained by you. It is not considered for reimbursement under this Policy, regardless of how long this Policy remains in force.

E. SPECIFIC DEDUCTIBLE AMOUNT

The amount which is wholly retained by you in the Policy Period. It is not considered for reimbursement under this policy, regardless of how long this Policy remains in force.

F. AGGREGATE ATTACHMENT POINT

Your Aggregate Attachment Point will be determined at the end of your Policy Period by use of the following formula:

1. At the beginning of each month during your Policy period, the number of your employees who are covered under your Employee Benefit Plan will be multiplied by the attachment factors stated in your Schedule of Insurance.
2. The sum of the monthly amounts computed as described in 1. above will be your Aggregate Attachment Point, subject to the Minimum Aggregate Attachment Point shown in your Schedule of Insurance. Your Minimum Aggregate Attachment Point will be applicable regardless of how long your coverage remains in force.

INSURING PROVISIONS (Continued)

G. COVERED PERSON

Any eligible individual who becomes covered under your Employee Benefit Plan.

H. AGGREGATE CORRIDOR BASIS

The percentage that has been added to expected claim costs for the Policy Period, which are below the Specific Deductible Amount, to calculate the Aggregate Attachment Factors. The Policyholder is responsible for funding the expected claim costs plus the Corridor.

I. PAID DATE

The date the check is issued by your Plan Supervisor is the Paid Date.

J. PAY, PAID, PAYMENT

Drafts or checks made payable to a Covered Person or provider of health care services or products that:

1. Have been promptly delivered to the payee; and
2. Are supported by sufficient funds to be honored upon presentation are referred to as Pay, Paid, or Payment.

K. UNDERWRITING MANAGER

Medical Risk Managers, of South Windsor, CT 06074, is the Underwriting Manager.

EXCLUSIONS AND LIMITATIONS OF LIABILITY

- A. The Company's liability under this Policy is limited to reimbursement of payments you have made to, or on behalf of persons covered under your Employee Benefit Plan for covered expenses provided under your Employee Benefit Plan. The Company is not liable for punitive, exemplary, or consequential damages, and you must hold the Company harmless from damages of any kind which are not caused by the Company's own acts or omissions. You will indemnify the Company for all expenses including attorney fees incurred in defending claims or legal actions brought against the Company by a person covered under your Employee Benefit Plan.
- B. The Company will not be liable for expenses incurred by a Covered Person for the care or treatment of a sickness or injury which is caused by war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising or usurped power.
- C. The Company will not be liable for payments you have made to Covered Persons under any plan of benefits which have not been specifically identified as covered plan benefits in A.7. and B.5 of your Schedule of Insurance.
- D. The Company will not be liable for expenses incurred by a Covered Person for experimental procedures, drugs or treatment methods which have not been approved by the American Medical Association or the appropriate medical specialty society.
- E. The Company will not be liable to reimburse you for payments you have made to, or on behalf of Covered Persons if the Company received your request for reimbursement is more than 180 days following the expiration of the applicable Policy period.
- F. If the Policyholder is a licensed hospital, the Company's liability for expenses incurred by a Covered Person as a result of services and charges of the Policyholder shall be as specified in items A.8 and B.6 of your Schedule of Insurance.
- G. The Company will not be liable for the cost of administration of claims or other services provided by the administrator, consulting fees, expenses of any litigation, or network fees, unless otherwise stated herein.
- H. The Company is not liable for expenses reimbursed by another insurance company or reinsurance company.
- I. The Company shall not be liable for known medical conditions of individuals who were not properly disclosed on the Disclosure Form prior to the signing of such form.

PREMIUMS

A. AGGREGATE EXCESS RISK PREMIUM

Aggregate premiums are payable by you either annually in advance or on a per employee per month basis, as stated on your Schedule of Insurance.

For Aggregate Premiums due on a per Employee per month basis, at the beginning of each month

during your Policy Period, the total number of your employees who are covered under your Employee Benefit Plan should be multiplied by the aggregate premium rate stated on your Schedule of Insurance.

Aggregate premiums paid on an Annual basis are due on the inception of your Policy.

B. SPECIFIC EXCESS RISK PREMIUM

Premiums are payable by you on a monthly basis. Each monthly premium will be computed as follows:

1. At the beginning of each month during your Policy Period, the number of your employees who are covered under your Employee Benefit Plan for "Single", "Family", "Employee Only", "Employee and one Dependent", "Employee and Dependents" coverage shall be multiplied by the appropriate specific premium factors stated in your Schedule of Insurance.
2. The monthly premium payable to the Company shall be the sum of the amounts computed as described in 1. above.

The first premium is due on the inception date of your Policy Period, and subsequent premiums are due on the first day of each month thereafter.

RENEWAL

Your coverage may be renewed only if renewal is mutually agreeable to both you and the Company. If the Company refuses to renew, it must give you written notice 31 days prior to your expiration date. Your renewal is subject to the Company's receipt and approval of a new Request for Excess Loss Indemnity Coverage. If approved, a new Schedule of Insurance will be issued to reflect any changes agreed upon by you and the Company.

**Amendment to the
Excess Loss Indemnity Coverage Policy**

THIS AMENDMENT amends the Excess Loss Indemnity Coverage Policy (Policy #100321, issued and effective January 1, 2009) (the "Policy") by and between Coventry Health and Life Insurance Company (the "Company") and the City of Wichita, Kansas ("Policyholder").

WHEREAS, the parties desire to make certain non-material modifications to the Policy.

NOW, THEREFORE, intending to be legally bound hereby, the parties agree as follows:

1. The Application For Excess Loss Indemnity Coverage and Schedule of Insurance, which is part of the Policy, is hereby amended as follows:

- a. Section 7 is hereby amended to add the following after the last line:

"Advanced Funding shall only be with respect to medical claims. There shall be no Advanced Funding for pharmacy claims."

- b. Section 10A. is determined to be not applicable to this Policy and is hereby deleted in its entirety and replaced with the following: "Intentionally Omitted."

2. Page 2-1 of the General Provisions Section is hereby amended to delete the section entitled "ERISA" in its entirety.

3. The Section entitled "Legal Action" on page 2.4 of the General Provisions Section is hereby amended to revise the first paragraph of the section to read as follows:

"An Action at law or in equity will not be brought to recover on this Policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this Policy. No such action will be brought after the expiration of 5 years after the time written proof of loss is required to be furnished."

4. Page 2-4 of the General Provisions Section is hereby amended to delete the section entitled "ARBITRATION" in its entirety.

5. Page 2-4 of the General Provisions Section is hereby amended to revise the section entitled "MISREPRESENTATION" to include the following at the end of the section:

"In effecting this Policy, Policyholder shall be entitled to rely on information provided by Company to Policyholder."

6. Page 2-5 of the General Provisions Section is hereby amended to add the following new section:

"CASH BASIS AND BUDGET LAWS

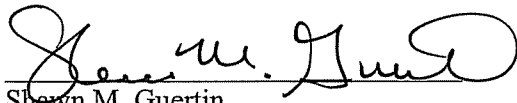
It is the intent of the Company and Policyholder that the provisions of this Policy are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101, et seq.) (the "Cash Basis Law") or the Kansas Budget Law (K.S.A. 79-2925) (the "Budget Law"). Therefore, notwithstanding anything to the contrary herein contained, the Policyholder's obligations

under this Policy are to be construed in a manner that assures that the Policyholder is at all times not in violation of the Cash Basis Law or the Budget Law.”

7. On Page 4-1, Section A of “EXCLUSIONS AND LIMITATIONS OF LIABILITY” is hereby amended to: (a) delete the phrase “and you must hold the Company harmless from damages of any kind which are not caused by the Company’s own acts or omissions” in the second sentence; and (b) delete the last sentence of the section.
8. Page 4-1 of the Exclusions Section is hereby amended to delete Section I of the section entitled “EXCLUSIONS AND LIMITATIONS OF LIABILITY.”
9. Page 4-2 of the Exclusions Section is hereby amended to modify the section entitled “RENEWAL” such that the phrase “31 days” in the second sentence is deleted and replaced with the phrase “60 days.”
10. If any conflict exists between the Policy and this Amendment, this Amendment shall control.
11. Any capitalized terms not defined herein shall have the meaning set forth in the Policy.
12. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. All other terms, conditions and provisions of the Policy and its amendments, addendums, attachments and exhibits shall remain in full force and effect.

INTENDING TO BE BOUND, the parties have executed this Amendment to be effective as of January 1, 2009.

Coventry Health and Life Insurance Company City of Wichita, Kansas



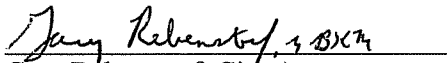
Shawn M. Guertin
President

By: _____

Print Name: _____

Print Title: _____

This Amendment and the Policy are Approved as to Form:


Gary Rebenstorf, City Attorney

12/24/2008
Date

City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council

SUBJECT: Sewage Treatment Plant II Nutrient Removal - Initiation of Funds

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Authorize the initiation of project funds for Plant II Nutrient Removal.

Background: Sewage Treatment Plant II, located at 2305 East 57th Street South, was constructed in the 1950s. The plant has undergone repeated upgrades during the last 50 years allowing the plant to maintain compliance with applicable state and federal regulations.

In 2004, the state of Kansas issued a report discussing the need for wastewater treatment plants to minimize their discharges of nitrogen and phosphorus. The most recent wastewater permit issued in 2007 specifically stated that the City would need to provide a feasibility study identifying the plans and costs associated with the installation of nutrient removal at Wichita's south plant. The state requires this to be accomplished by December of 2009.

Analysis: A plan to accomplish nutrient removal in three phases was presented in the 2005 Sanitary Sewer Master Plan. Nutrient removal will be a costly undertaking with each phase averaging around \$55 million. Solids handling was not incorporated in the master plan and presents an additional cost. Due to the impact these upgrades will have on the CIP, future bonding capacity and debt service ratio, this project specific to the feasibility of nutrient removal at Plant II is being proposed. This will allow Staff to investigate alternatives and evaluate the life-cycle costs for proposed alternatives.

The study will require the development of a comprehensive solids management plan that fits the proposed water phase treatment plan and will investigate potential issues that nutrient removal may have on solids phase treatment. Additionally, the study will include a watershed analysis and site-specific nutrient criteria evaluation. These two additional tasks may provide information that could reduce the need for costly upgrades by identifying watershed alternatives at a lower cost.

Financial Considerations: The feasibility study requested by the state was included in the CIP as the preliminary effort for the design of upgrades to Plant II. This study is a requirement of the National Pollutant Discharge Elimination System permit and will provide information on the costs of installing nutrient removal in a 54.4 million gallon-per-day treatment facility. For completion of the mandatory elements, \$125,000 has been budgeted. Monies are available for Plant II Nutrient Removal in CIP S-560, and will be funded from Sewer Utility Revenues and Reserves, and/or a future revenue bond issue.

Legal Considerations: The Resolution has been approved by Law. The Law Department will review and approve Contracts as required.

Goal Impact: The project will help insure efficient infrastructure to provide reliable, compliant and secure utilities.

Recommendations/Actions: It is recommended that the City Council: 1) authorize Staff to proceed; 2) approve the initiation of funds; 3) adopt the Resolution; and 4) authorize the necessary signatures.

Attachments: Resolution

RESOLUTION NO. 09-023

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY, AND TO ISSUE REVENUE BONDS IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED \$125,000 EXCLUSIVE OF THE COST OF INTEREST ON BORROWED MONEY, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has heretofore by Ordinance No. 39-888, adopted May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility"; and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 et seq., (the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Plant 2 Nutrient Removal (S-560) (the "Project"). The total costs of the Project are estimated to be one hundred twenty-five thousand dollars (\$125,000) in 2009 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.

SECTION 2. It is hereby found and determined that the construction of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed one hundred twenty-five thousand dollars (\$125,000) in 2009, exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

SECTION 4. It is hereby found and determined to be necessary, before such revenue bonds can be issued, to publish one time in the City's official newspaper a Notice of the Governing Body's intention to initiate and complete the Project and to issue such revenue bonds, such Notice to be in the form which is attached hereto and made a part hereof by reference as though fully set forth herein. If, within Fifteen (15) days from and after the date of the publication of the Notice, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If a sufficient protest to the Project and the issuance of the revenue bonds is not filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the sale and issuance of the revenue bonds.

SECTION 5. This Resolution shall be in force and take effect from and after its adoption and approval.

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, not less than two-thirds of the members voting in favor thereof, on January 13, 2009.

(Seal)

CARL BREWER, Mayor

ATTEST:

KAREN SUBLETT, City Clerk

(Published in the Wichita Eagle, on January 16, 2009.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED \$125,000, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 09-023, duly adopted January 13, 2009, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Plant 2 Nutrient Removal (S-560) (called the "Project"). The total costs of the Project are estimated to be one hundred twenty-five thousand dollars (\$125,000). The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed \$125,000 under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on January 13, 2009.

/s/ CARL BREWER, Mayor

ATTEST:

/s/ Karen Sublett, City Clerk

Agenda Item No. XII-12.

City of Wichita
City Council Meeting
January 13, 2009

TO: Mayor and City Council

SUBJECT: Supplemental agreement with Law/Kingdon, Inc. for professional services related to: Design and construction of the International Marketplace District streetscape improvements; and, Design and construction of the outdoor public market element of the NOMAR Public Market facility on city property along 21st Street North, between Market and Broadway. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: City Council Consent

Recommendation: Approve the supplemental agreement and authorize the appropriate signatures.

Background: In early 2007, the City hired Law/Kingdon to prepare a design concept for the NOMAR indoor/outdoor public market facility in the vicinity of Market and 21st Street. This design concept was completed as part of a broader feasibility study that confirmed the viability of an indoor/outdoor public market facility located at the northeast corner of Market and 21st Street. The *Nomar International Marketplace District Plan* completed by the Greteman Group in 2007 conceptually identified key streetscape improvements necessary to create a unique and fresh identity to the International Marketplace District area centered at 21st Street and Broadway, and also complement the NOMAR indoor/outdoor public market facility. In 2008, the City contracted with TranSystems to undertake engineering design work associated with the 21st Street and Broadway intersection realignment project, and the three-lane reconfiguration of 21st Street between Market and Waco.

Analysis: It is now time to move forward with the actual design and construction of the key streetscape improvements in the International Marketplace District, concurrent with the 21st Street and Broadway intersection realignment project and the three-lane reconfiguration of 21st Street between Market and Waco. This is also the time to integrate the design and construction of the key streetscape improvements with the design and construction of the outdoor elements of the NOMAR public market project. An ongoing dialogue between the City and the West 21st Street CDC has determined that the outdoor public market element is preferred as a first phase of development, preparatory to the future construction of the indoor NOMAR public market facility.

Professional architecture and landscape design services are now needed to do the following tasks in a concurrent and integrated fashion:

1. Develop construction detail designs for the specific outdoor elements of the NOMAR public market facility, and prepare for approval by the City, a Planned Unit Development and platting document for this project.
2. Develop construction detail designs for key streetscape elements of the International Marketplace District, and integrate these designs with the engineering design work associated with the 21st Street and Broadway intersection realignment project; the three-lane reconfiguration of 21st Street between Market and Waco; and, the design of the outdoor elements of the NOMAR public market facility.

Public Works and Planning Department staff has determined that Law/Kingdon has the professional expertise and experience necessary to deliver the above referenced architecture, landscape and platting design services in an integrated and coordinated fashion.

Project oversight will be coordinated through the Metropolitan Area Planning Department. A supplemental agreement for professional services has been negotiated with Law/Kingdon, Inc. in an amount not to exceed \$131,300.

Financial Considerations: Two separate bonding resolutions were approved by City Council on October 21, 2008 to fund (not to exceed \$500,000) the design and construction of the outdoor public market element of the NOMAR indoor/outdoor public market project; and to fund (not to exceed \$500,000) the design and construction of the International Marketplace District streetscape improvements. Additional EDI grant funding in the amount of \$261,888 has also been designated for the public market element of the project.

Legal Considerations: The supplemental agreement has been reviewed and approved as to form by the Law Department.

Goal Impact: The project will address the Core Area and Neighborhoods goal by implementing action items contained in the *21st Street North Corridor Revitalization Plan* intended to promote the revitalization of this segment of the 21st Street North corridor.

Recommendations/Action: It is recommended that the City Council approve the supplemental agreement with Law/Kingdon, Inc. and authorize the appropriate signatures.

Attachment: Supplemental Agreement

SUPPLEMENTAL AGREEMENT
TO THE
AGREEMENT FOR PROFESSIONAL SERVICES DATED 27 MARCH, 2007
BETWEEN
THE CITY OF WICHITA, KANSAS
PARTY OF THE FIRST PART, HEREINAFTER CALLED THE
"CITY"
AND
LAW/KINGDON, INC.,
PARTY OF THE SECOND PART, HEREINAFTER CALLED THE
"CONSULTANT"

WITNESSETH:

WHEREAS, there now exists a Contract (dated 27 March 2007) between the two parties covering professional architectural services to be provided by the CONSULTANT in conjunction with architectural schematic design services for a Mercado (NOMAR) Public Market Facility in the vicinity of 21st Street North and Market Street, Wichita, and

WHEREAS, Paragraph V. C. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the CONSULTANT provide additional services required for and related to the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to design and construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following work items as described in attached **Exhibit "D"**:

B. PAYMENT PROVISIONS

The fee in Section V. A. shall be amended to include the following:

Payment to the CONSULTANT for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by an amount not to exceed ONE HUNDRED TWENTY-SEVEN THOUSAND, THREE HUNDRED DOLLARS (\$127,300.000) for total project fees

as outlined in **Exhibit "D"**; and by an additional amount not to exceed FOUR THOUSAND DOLLARS (\$4,000.00) for project reimbursable expenses as outlined in **Exhibit "D"**:

C. COMPLETION

The CONSULTANT agrees to complete and deliver the preliminary and final plans (including final tracings), specifications, estimates and all other deliverables associated with the work items as outlined in **Exhibit "D"** to the CITY on or before twenty (20) calendar weeks from the date of the notice to proceed;

EXCEPT that the CONSULTANT shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the CONSULTANT.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the CONSULTANT have executed this Supplemental Agreement as of this _____ day of _____, 2009.

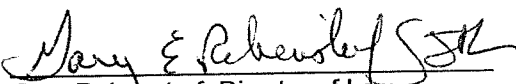
BY ACTION OF THE CITY COUNCIL

Carl Brewer, City Mayor

ATTEST:

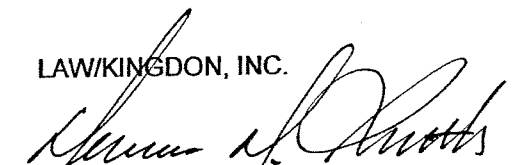
Karen Sublett, City Clerk

APPROVED AS TO FORM:



Gary Rebenstorf, Director of Law

LAW/KINGDON, INC.



Dennis D. Smith
President

ATTEST:

Exhibit "D"

Amended Project Description



Architecture

Inspire. Create. Achieve.

DALLAS | WICHITA
345 Riverview, Suite 200
Wichita, Kansas 67203
T 316.268.0230
F 316.268.0205
law-kingdon.com

December 3, 2008

Mr. Dave Barber, Advanced Plans Manager
City of Wichita, 10th Floor
455 North Main
Wichita, KS 67202

RECEIVED
DEC - 4 2008

RE: Proposal for Design Services – Nomar International Public Market & Streetscape
Supplemental Agreement
Project No. 07290-01

METROPOLITAN PLANNING

Dear Mr. Barber,

Thank you for the opportunity to provide supplemental design services for the Nomar Public Market and Nomar International Marketplace District. We are eager to continue with our previous work on the public market as well as the associated streetscape improvements to the district.

Scope of Work:

Following is a brief project description and scope based upon our meetings with you on 10/16/08 and 11/5/08 and the scope of services you have requested via email 10/29/08. We have broken this proposal into three work items for clarity.

Work Item #1 – Nomar Outdoor Public Market Scope:

Design of an outdoor market based upon the Nomar *International Public Market Feasibility Study* as prepared by Law/Kingdon and ERA.

Generally the project shall include the following:

- Area lighting enhancements: Pedestrian light poles and fixtures
- Site Amenities: Benches, Trash Receptacles, Etc.
- Public Restrooms
- Indoor Pavilion
- Hardscaped Plaza
- Vendor electrical services
- Vendor tent anchoring

The design of the indoor pavilion shall be such that the enclosed structure can be added to the completed outdoor market with minimal disturbance of the site and improvements.

Additionally, we propose to investigate opportunities for landscape integration, market gateway element, canopies, etc.

- During the design process more programming of the public restrooms and indoor pavilion will be necessary to determine size and amenities provided by these items.

The construction budget for this work item is \$761,888. This amount shall be assumed to cover all construction costs, construction testing/inspections and design fees.

Work Item #2 – Nomar International Marketplace District Streetscape Scope:

Design of streetscape improvements based upon the Nomar *International Marketplace District Plan*, as well as influences of the Nomar Public Market. These improvements shall be coordinated with the current 21st Street and Broadway intersection realignment project prepared by TranSystems.

Streetscape boundaries shall include:

- a. West side of Broadway from 1/3 block south of 21st Street to 1/3 block north.
- b. Both sides of Market from 21st Street to 1/3 block north.
- c. Both sides of 21st Street from Broadway to Waco

Generally the project shall include the following:

- Area lighting enhancements: Pedestrian light poles, fixtures and banner arms
- Site Amenities: Benches, Trash Receptacles, Etc.
- Street trees, planters and bollards
- Special landscape treatments – focused landscape/hardscape elements at the district gateway and intersections.
- Expanded sidewalk widths with paver bands
- Corner/Intersection pavers with artistic medallion

The construction budget for this work item is \$500,000. This amount shall be assumed to cover all construction costs, construction testing/inspections and design fees.

For work items #1 and #2, the project team shall investigate options for site lighting, paving and amenities based upon the following criteria:

- Design Theme
- Cost
- Long term maintenance/durability

Work Item #3 – Planned Unit Development (PUD) & Platting Scope:

Preparation of a PUD for the two anticipated city-owned parcels north and south of 21st Street between Market and Broadway and the subsequent platting of both sites as a condition of the PUD approval process.

Law/Kingdon shall prepare the PUD per requirements set forth by the Planning Department and retain TranSystems to provide platting services for both properties.

The objective of this plat is to redevelop the two tracts, one of which is on the northwest corner of the intersection and the other on the southwest corner, into future usable parcels for the NOMAR Project. Street right-of-way along this corridor is critical for the improvements needed to make the market area successful. Not only is the vehicular traffic being considered but also pedestrian and vendor traffic for the market. Platting will also establish utility corridors to serve the vendors and the entire district.

Preliminary surveying of the road project was completed for design purposes. Therefore, we currently have good topographic information of the roadway and exterior elements along the road right-of-way. Platting requires contours of the area and all property monuments in the area. Five main phases are to be completed for the plat. First, is the title search from a reputable title company to guarantee accuracy of the property lines. This is required for the final step of the process which requires a title report from an abstract or title insurance company. Second, is the field work to establish good survey control and identify any existing monuments in the area. With any good plat, survey control of the area and the ability to monument the area is critical. The third phase would start the interaction with City Planning with a sketch plan including information about the NOMAR area. This

information may include graphics of the look and feel of the area and roadway sketches. Once approved the fourth and fifth phases will include the preliminary and final plats of the area. We have anticipated multiple meetings over the next few months to complete this process. Once the platting is finalized, survey monuments will be set at either the platted location or an offset monument until the construction project can be completed due to existing building locations and the project surveyor can reset the monuments.

Meetings and Presentations:

It is anticipated that the design team shall meet regularly with the 21st Street Business Association and West 21st Street CDC for project updates, approvals, and input throughout the design process. Additionally, we anticipate presenting final design solutions to the District Advisory Board and Design Council for both Item #1 and #2.

Project Team:

- Project Management/Coordination – LawKingdon Architecture
- Site Development and Landscape Architecture – LawKingdon Architecture
- Architecture – LawKingdon Architecture
- Mechanical, Electrical, & Plumbing Engineering – LawKingdon Architecture
- Structural Engineering – Dudley Williams
- Civil Engineering/Platting – TranSystems
- Artist Consultants – Whipple Studios (Todd Whipple)

Preliminary Schedule:

- Pre-Design: 4 weeks
 - o Site Survey
 - o Base Plan Production
 - o Client and CDC Meetings (1 each)
- Schematic Design: 4 weeks
 - o Development of Design Alternatives
 - o Cost Estimates
 - o Client and CDC Meetings (1 each)
- Design Development: 4 weeks
 - o Development of Final Design Solution
 - o Development of Specific Alternatives
 - o Cost Estimates
 - o Client and CDC Meetings (1 each)
 - o Final Design Revisions
 - o Final Presentations For Approval:
 - Client
 - CDC
 - DAB
 - Design Council
- Platting & PUD Preparation: 16-20 weeks (Concurrent with CD Preparation)
 - o PUD Preparation and Draft Submittal
 - o Preliminary Plat Submittal
 - o Final PUD Document
 - o Final Plat Submittal

- Construction Document Preparation: 8 weeks
 - o Construction Document Package (Field Check-85%)
 - Cost Estimates and Specifications
 - Submittal for Review
 - o Construction Document Final Plans (100%)
 - Final Cost Estimates and Specifications
 - Submittal for Bidding

Fee Proposal:

Our fee for the detailed scope of work is below. We welcome the opportunity to discuss both the scope of the project and our related fee with you in more detail to ensure that we are providing the best possible service to the City of Wichita. At the completion of the project we shall deliver one complete set of construction documents and specifications to the City of Wichita for bidding. Electronic files of the construction documents will also be provided.

Work Item #1 – Nomar Outdoor Public Market

Site Development, Landscape Architecture, Architecture, Mechanical, Electrical & Plumbing Engineering	\$53,300.00
Civil Engineering	\$3,000.00
Structural Engineering (footing/foundation for pre engineered pavilion building and incidental site features	\$3,500.00
Geotechnical Soils Report	\$2,500.00
Artist Consultant	\$4,500.00
Item #1 Design Fee:	\$66,800.00

Work Item #2 – Nomar International Marketplace District Streetscape:

Site Development, Landscape Architecture, Electrical Engineering	\$35,000.00
Artist Consultant	\$4,500.00
Item #2 Design Fee:	\$39,500.00

Work Item #3 – PUD & Platting:

Planned Unit Development (PUD) Preparation	\$5,000.00
Platting Services	\$16,000.00
Item #3 Fee:	\$21,000.00

TOTAL PROJECT FEE: \$127,300.00

Billing:

Compensation for services provided will be invoiced on a monthly basis in proportion to the percent complete of each phase identified on the final contract. For services outside the scope of this agreement, work will be performed as outlined under the additional services heading below.

Reimbursable Expenses:

Reimbursable expenses are defined as the direct expense incurred in connection with each project. These expenses will be billed at cost. Reimbursable expenses shall include, but are not limited to the following:

- Overnight mailing and express mail.
- Renderings and colored presentation documents.
- Plan review fees and building permit fees assessed by any authority.
- Transportation; Travel and related expenses.
- Specialized consultants not identified or known at this time.
- Additional expense over normal hourly rates for overtime work approved by the Owner in advance.
- Printing, plotting and reproductions for bid documents in multiple sets. Upon the completion of any of the aforementioned construction document phases, Law/Kingdon will provide one (1) set of reproducible drawings and one (1) copy of an unbound specification for issuance to the General Contractor for pricing. We assume there will only be one (1) General Contractor involved in the project. Law/Kingdon will also provide (3) sets of bound drawings and specifications for issuance to the municipal authority for project permitting.

Based on our discussions an allowance of Four Thousand (\$4,000.00) Dollars has been established for printing plotting and reproductions on this project. This allowance is a budget. A monthly statement will accompany the Architect's invoice for professional services, outlining the amounts spent from the allowance during the month and will reflect the remaining monies available.

Additional Services:

Law/Kingdon, Inc. will provide additional services when requested by the Owner in writing, on an hourly basis in accordance with the attached hourly rate schedule (Exhibit 'A') or at a mutually agreed upon lump sum. Additional Services will be billed at direct cost without mark-up. A letter outlining the scope of the additional services with the proposed fee will be sent to the Owner for signature and approval prior to beginning the additional services work.

Professional Services not included:

1. Environmental Surveys and/or Reports

Agreement:

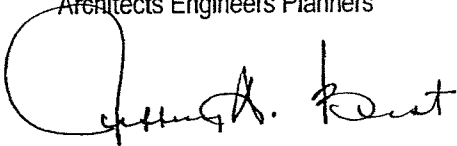
By executing and returning one (1) original of this letter the City of Wichita authorizes Law/Kingdon to begin performance of the services outlined and for the fees identified in this proposal. After we have resolved any modifications to the scope of work proposed for the project and any subsequent adjustment to the fee, we will enter into a standard AIA (American Institute of Architects) B141 Contract for Professional Services (Owner/Architect) Agreement. Once the Contract has been executed this proposal letter and approved proposal exhibits will become an attachment to the contract.

Dave, thank you for the opportunity to continue to work with the City of Wichita on the development of Normar International Public Market. We welcome the chance to continue working with you on this development.

After you receive this proposal, should you have questions or want to expand or eliminate services, please give me a call (316-304-4419).

Sincerely;

LawKingdon Architecture
Architects Engineers Planners



Jeff Best, ASLA
Director of Landscape Architecture

Copy: Dennis D. Smith, AIA
Nancy Ahsmuhs
Tony Rangel, AIA

Agreed to on this _____ day of _____ 2008

X

Authorized Signature: _____

Printed Name: _____

Title: _____

Company: _____



LAW/KINGDON, INC.

Architects • Engineers • Planners
345 Riverview P.O. Box 1094
Wichita, KS 67203 Wichita, KS 67201-1094
Phone 316-268-0230 Fax 316-268-0205

EXHIBIT 'A'

SCHEDULE OF FEES AND SERVICES
(Effective April 1, 2008)

Hourly Rates by Responsibility:

Staff Management and Principals	\$205
Manager of Design	\$160
Designers and Planners	\$100
Project Directors	\$132
Architects	\$105
Job Captains	\$ 95
Manager of Mechanical Engineering	\$120
Manager of Electrical Engineering	\$120
Engineers	\$100
Specifications and Technical Writers	\$100
Drafting	\$ 80
Clerical	\$ 58

Consultants:

Actual Billing plus 10% processing charges.

Printing, Shipping and Courier Services:

Actual Billing plus 10% processing charges.

Travel Out of Wichita or Dallas:

When authorized by Owner or Agent of Owner:
Time for services: Eight (8) hours per day x hourly rate
Air fare, car rental, taxi, or other mode: Actual Billing
Accommodations, meals, subsistence: Actual Billing

Second Reading Ordinances for January 13, 2008 (first read on January 6, 2009)

Release of Property, The Coleman Company. (District VI)

ORDINANCE NO. 48-154

An ordinance authorizing the amendment of the trust indenture, the site lease and the lease, to release certain real estate from the provisions thereof, relating to taxable industrial revenue bonds (The Coleman Company, Inc.) of the City of Wichita, Kansas.

Public Hearing and Adoption of KenMar Center Redevelopment Project Plan. (District I)

ORDINANCE NO. 48-155

An ordinance adopting a project plan for the Ken Mar Center project in the Ken Mar redevelopment district.

ZON2008-00057 – Zone change from B Multi-family (“B”) to LC Limited Commercial (“LC”); generally located south and east of the intersection of Elm Street and Glendale Avenue; east of Oliver Avenue and north of Central Avenue. (District I)

ORDINANCE NO. 48-156

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

CUP2008-45 and ZON2008-62 – Creation of DP-317 Summit Crossing Community Unit Plan and zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”); generally located south of 21st Street North and west of 127th Street East. (District II)

ORDINANCE NO. 48-157

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

ZON2008-00065 – Zone change from GI General Industrial (“GI”) to SF-5 Single-family Residential (“SF-5”). Generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road. (District VI)

ORDINANCE NO. 48-158

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

ZON2008-00067 – City zone change from SF-5 Single-family Residential (“SF-5”) to LC General Commercial (“LC”) subject to a Protective Overlay; generally located north and east of South Meridian Avenue and I-235. (District IV)

ORDINANCE NO. 48-159

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

PUD2008-05 - Create PUD #28 East Boulevard Planned Unit Development; generally located north of 3rd Street North between Oliver Street and Bleckley Drive. (District II)

ORDINANCE NO. 48-160

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

SUB 2008-25-Plat of First Pentecostal Church Addition located on the southeast corner of MacArthur and Hydraulic. (District III)

ORDINANCE NO. 48-161

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

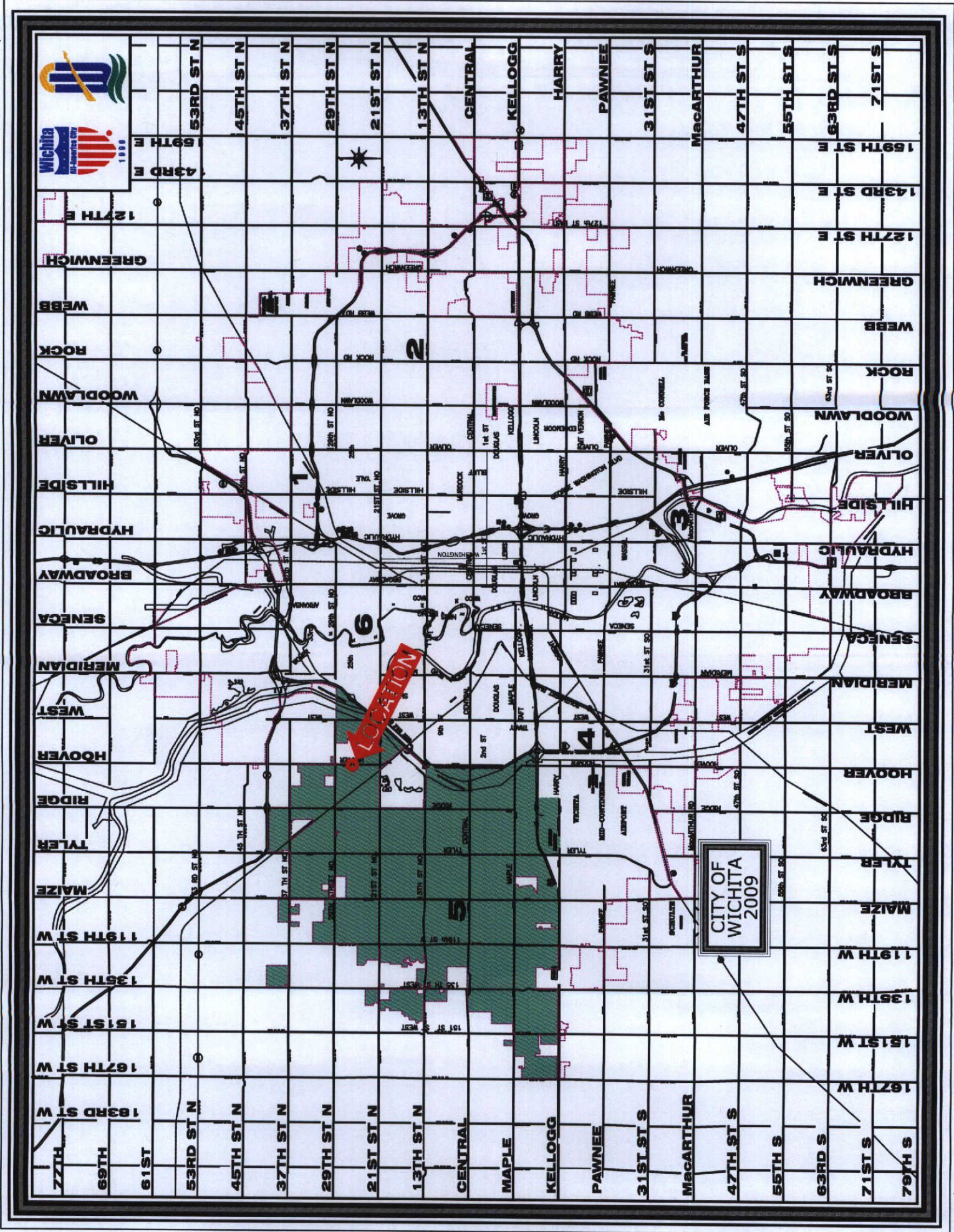
ORDINANCE NO. 48-162

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

Acquisition by Eminent Domain of a portion of 3633 West Zoo Boulevard for the 9th Street Drainage Outfall Project. (District VI)

ORDINANCE NO. 48-163

An ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction of the 9th Street drainage outfall project in the City of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the district court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof.



**City of Wichita
City Council Meeting
January 13, 2009**

TO: Mayor and City Council Members

SUBJECT: Street Closure: Hoover Road at 25th St. N. (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the street closure.

Background: Mies Construction has contracted to accomplish the installation of a 20" water line along Hoover Rd. in west Wichita from 23rd to 25th Sts. N. This project was approved by the City Council on August 7, 2007. As this installation nears 25th St. the line turns, crosses Hoover Rd., and is connected to an existing line. The project specifications allow for Hoover Rd. to be closed for no more than 10 consecutive calendar days during the water line installation at the crossing area. The contractor plans to begin this line installation and street closure on or about Friday, January 16th with completion near January 25th. If weather becomes a factor during this installation the contractor will use steel plates to get Hoover Rd. back open at the end of the 10 day period.

Analysis: Mies Construction is responsible for the placement of the required detour and construction signs and barricades and the notification of area businesses and residents. During the street closure, Hoover Rd. traffic will be detoured as follows:

Southbound Hoover Rd. traffic will be detoured west on 29th St. N., then south on Ridge Rd. to 21st St., then east to return to Hoover Rd.

Northbound Hoover Rd. traffic will be detoured west on 21st St. N., then north on Ridge Rd. to 29th St. N., then east to return to Hoover Rd.

Financial Consideration: None.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving the water distribution system for this area of west Wichita.

Legal Consideration: None.

Recommendation/Actions: It is recommended that the City Council approve the street closure.

Attachments: Map